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The human rights and security relationship and the norm implementing dynamics of the Arms Trade Treaty

Delgado, Andrea

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**The human rights and security relationship and the norm implementing dynamics
of the Arms Trade Treaty**

Andrea Delgado

A thesis submitted for the degree of Doctor of Philosophy

University of Bath

Department of Politics, Languages and International Studies

July 2019

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Declaration of authorship

I am the author of this thesis, and the work described therein was carried out by myself personally.

Candidate's signature:



Table of contents

OTHER TABLES	6
ACKNOWLEDGEMENTS	9
ABSTRACT	11
LIST OF ABBREVIATIONS	12
CHAPTER 1- INTRODUCTION	13
THEORETICAL STANCE	15
METHODOLOGY AND ANALYTICAL FRAMEWORK	23
DESCRIPTION OF CHAPTERS	29
CHAPTER 2- GENEALOGY OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP	33
INTRODUCTION	33
TYING SECURITY AND HUMAN RIGHTS	34
SAFETY, THREAT AND THE PARADIGMS OF SECURITY	35
EVOLUTION OF HUMAN RIGHTS AND SECURITY IN INTERNATIONAL POLITICS: HUMAN SECURITY AND R2P	37
UNIVERSALITY AND THE CULTURAL RELATIVISM OF HUMAN RIGHTS	39
KANT'S UNIVERSALITY AND TWENTIETH CENTURY PHILOSOPHY	41
RECENT EVOLUTION OF HUMAN RIGHTS AND SECURITY	43
HUMAN RIGHTS AND SECURITY ENTERING SOCIETY THROUGH THE EVOLUTION OF HUMANITARIAN NORMS	44
IR VIEWS ON HUMAN RIGHTS	46
DEFINING THE CONSTRUCTIVIST HUMAN RIGHTS AND SECURITY RELATIONSHIP	48
CONCLUSION	50
CHAPTER 3 - ENGAGING DISCOURSES OF HUMAN RIGHTS AND SECURITY IN THE NORM DYNAMICS OF GLOBAL GOVERNANCE	52
INTRODUCTION	52
THE INTERSPACE OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP WITHIN ARMS CONTROL	54
DENISE GARCIA'S HUMANITARIAN SECURITY REGIMES	55
DISARMAMENT DIPLOMACY	56
CONTEMPORARY ARMS CONTROL	58
CONTROLLING THE MEANS OF VIOLENCE INSTEAD OF ARMS CONTROL	60
HUMANITARIAN ARMS CONTROL	61
SMALL ARMS AND LIGHT WEAPONS	62
ACTORS AND INTERACTIONS OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP	63
STATE'S ACTIONS IN DIALOGUE: CONSTRUCTIVISM, THE ENGLISH SCHOOL AND SOCIOLOGY	64
TANS: KEY SOCIALIZING ACTORS AND THE "BOOMERANG EFFECT"	67
GLOBAL CIVIL SOCIETY	68
WHO GOVERNS THE GLOBE?	70
GLOBAL GOVERNING THROUGH MULTILATERAL ARMS CONTROL	72
CONCLUSION	73
CHAPTER 4- ARMS CONTROL IN THE ARMS TRADE TREATY IMPLEMENTATION	76

INTRODUCTION	76
OVERVIEW OF THE ARMS TRADE TREATY PRE 2014	77
HUMANITARIAN CORE	78
KEY ACTORS IN THE ATT NEGOTIATION	79
WHY STATES ACCEPTED THE ATT: INTERNATIONAL AND DOMESTIC CONCERNS	80
POST 2014: IMPLEMENTING THE ATT ALONGSIDE NGOS	82
ATT OFFICIAL MECHANISMS- THE SECRETARIAT AND PRESIDENCY	83
ATT OFFICIAL MECHANISMS- CONFERENCES OF STATE PARTIES	85
ATT UNOFFICIAL BUT INDISPENSABLE MECHANISMS: GAP FILLING	89
CONCLUSION	91

CHAPTER 5- NGOS ROLE IN THE ATT FULFILMENT: CONTROL ARMS AND ATT MONITOR REPORTS

INTRODUCTION	93
ATT IMPLEMENTATION ALONGSIDE AN NGO: CONTROL ARMS' ATT MONITOR	95
DEFINING IMPLEMENTATION, VERIFICATION AND MONITORING	96
METHODS AND MECHANISM OF CONTROL ARMS- ATT MONITOR PROJECT	97
WHERE DOES CONTROL ARMS- ATT MONITOR STAND	99
MORAL OVER MATERIAL INTERESTS CONSTRUCTED BY SURVIVAL	103
IDENTITY AND THE POLITIZATION OR LACK THEREOF OF A <i>NORM IMPLEMENTER</i> NGO	104
MORALITY IN DIRECT OPPOSITION TO THE STATE OR <i>FALSE MORALITY</i> ?	106
THE MATERIAL NEED FOR SURVIVAL OF NGOS FED BY CERTAIN STATES	111
PARTICULAR OVERLAP OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP	116
CHARACTERISTICS OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP TODAY	116
IMPLICATIONS FOR FUTURE ATT IMPLEMENTATION	119
CONCLUSION	121

CHAPTER 6- THE UK, CAAT, THE 2017 HIGH COURT DECISION AND APPEAL 2019: SEEKING TREATY IMPLEMENTATION

INTRODUCTION	124
THE HIGH COURT JUDGEMENT OF 2017 AND APPEAL OF 2019	126
INTRODUCING THE ACTORS OF THE 2017 DECISION AND 2019 APPEAL	127
CONSTITUTIVE CAUSALITY OF THE 2017 HIGH COURT'S DECISION: USE OF INTERNATIONAL HARD AND SOFT LAW	133
MORAL AND MATERIAL INTERESTS CONSTRUCTED BY STATE AND NON-STATE ACTORS	136
UK MORAL INTEREST SEEKING COMPLIANCE THROUGH CIVIL SOCIETY	136
NEXUS OF MATERIAL INTERESTS COLLIDE: SECURITY, MILITARY, ECONOMICS AND POLITICS	139
WHY STATES EXPORT ARMS IF THEY BELONG TO IHL INSTRUMENTS LIKE THE ATT?	143
PARTICULAR OVERLAP OF HUMAN RIGHTS AND SECURITY RELATIONSHIP OF THE UK	148
CHARACTERISTICS OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP TODAY	148
IMPLICATIONS FOR FUTURE ATT IMPLEMENTATION LOCALLY AND GLOBALLY	151
CONCLUSION	152

CHAPTER 7- NORWAY'S STATE AND NON-STATE ACTORS PURSUING THE HALT OF ARMS EXPORTS TO ARAB STATES

INTRODUCTION	156
ATT IMPLEMENTATION IN NORWAY LED BY ACTORS OUTSIDE AND WITHIN THE STATE	158

NORWAY'S MILITARY AND SECURITY STRATEGIES: UNION OR DIVISION BETWEEN HUMAN RIGHTS AND SECURITY	158
<i>WITHIN-STATE ACTORS AND NON-STATE ACTORS AS NORM IMPLEMENTERS</i>	163
MORAL AND MATERIAL INTERESTS CONSTRUCTED BY ITS PEACE DISCOURSE	167
NORWAY'S PEACE IDENTITY AND STATUS SEEKING IN FOREIGN POLICY	168
THE "NORWEGIAN MODEL" AND <i>FALSE MORALITY</i>	171
INTERESTS AND THE PARITY OF HUMAN RIGHTS AND SECURITY MERGE	173
PARTICULAR OVERLAP OF HUMAN RIGHTS AND SECURITY RELATIONSHIP OF NORWAY	175
CHARACTERISTICS OF THE HUMAN RIGHTS AND SECURITY RELATIONSHIP	175
IMPLICATIONS FOR FUTURE ATT IMPLEMENTATION LOCALLY AND GLOBALLY	177
CONCLUSION	178
CHAPTER 8- CONCLUSION	182
BIBLIOGRAPHY	193

Other Tables

Table 1- Control Arms Steering Members Financing

Figure 1- The human rights and security relationship of Control Arms and the ATT
State Parties

Figure 2- The human rights and security relationship of the UK and CAAT

Figure 3- The human rights and security relationship of Norway, the SV and Redd
Barna

For Gaby,
who could not finish her thesis.

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Abstract

Human rights and security, are frequently managed as detached concepts. This thesis unites them in a relationship that implies that there has always been an underlying association between keeping humans safe whilst securing their space through the use of force. International norms, like the Arms Trade Treaty (ATT), have this human rights and security relationship in their core. Theoretically, I stem from a constructivist stance that cross-borders with the English School and adds to the growing literature on non-state actors that seek to improve arms control and to inflict change in the global governance of international humanitarian law. By deconstructing and reconstructing through a genealogical constitutive framework of analysis of the relationship, I argue that the actors and actions of the ATT implementation demonstrate that the relationship is constructed by a complex nexus of moral and material interests.

I analyse three case studies: Control Arms-ATT Monitor, an NGO pushing for Treaty fulfilment; the UK, as a large arms exporter being held accountable by an independent NGO for apparent failure to implement the Treaty; and Norway, a small arms exporting state intertwined with diverse actors to achieve Treaty implementation. Empirically, I claim that the norm implementation dynamics of the Treaty expose a human rights and security relationship that reflects the constant change and strains amongst its actors, between morality and materialism and between human rights and security. I introduce norm implementers as key actors that can go beyond the typical state and non-state limits exposing their semi-permeated boundaries and that can also operate within the state. I demonstrate the multilayer realm where the human rights and security relationship develops and how its construction implies material survival, false use of morality and giving rights whilst controlling the means of violence.

List of abbreviations

AI- Amnesty International
ATT- Arms Trade Treaty
ATT-BAP- Arms Trade Treaty Baseline Assessment Project
CA- Control Arms
CAAT- Campaign Against the Arms Trade
CMV- Controlling the Means of Violence
CSP- Conference of State Parties
DfID- Department for International Development
ES- English School of International Relations
FGC- First Geneva Convention
HAC- Humanitarian Arms Control
HC- High Court
HRL- Human Rights Law
HRW- Human Rights Watch
IHL- International Humanitarian Law
INGO- International Non-Governmental Organisation
IR- International Relations
MoD- Minister of Defence
MP/MPs- Member/s of Parliament
NGO- Non- Governmental Organisation
PRIO- Peace Research Institute Oslo
R2P- Responsibility to Protect
RCW- Reaching Critical Will
RSAF- Royal Saudi Air Force
SA- Saudi Arabia
SALW- Small Arms and Light Weapons
SIPRI- Stockholm International Peace Research Institute
SoSIT- Secretary of State for International Trade
SV- Socialist Left Party
TAN or TANS- Transnational advocacy network or networks
UAE- United Arab Emirates
UK- United Kingdom
UN- United Nations
UNIDIR- United Nations Institute for Disarmament Research
UNSC- United Nations Security Council
USA/US- United States of America
VTF- Voluntary Trust Fund
WILPF- Women's International League for Peace and Freedom.

Chapter 1- Introduction

Whether in times of peace or crisis, the way in which actors manage security matters. Often it seems like security issues outweigh other topics, like human rights. In fact, these two concepts, human rights and security, seem to be frequently managed in detached approaches. This thesis seeks to add to the notion of change of this logic into a modified view that should not be security-based, or human-rights based, but human rights and security based. This approach allows for the creation of an understanding of a relationship between human rights and security. This concept is not entirely new. It could be said that since the times of the Greeks, security and human rights issues have been entangled and plenty of tangible and intangible norms have been created in its name. The best example being the First Geneva Convention of 1864, which marks the birth of the contemporary human rights and security relationship. In International Relations literature, for example, Gwendolyn Sasse (2005) has defined this as a security and rights nexus, she uses it in terms of minority and migration issues. Other scholars have been, directly or indirectly working on the nexus of human rights and security without expressly knowing it in relation to the refugee policies (Lavenex, 2001), humanitarian arms control (Cooper, 2011; Greene, 2010; Hynek, 2007; Wisotzki, 2010), humanitarian disarmament (Borrie, 2009; Borrie and Randin, 2006; Krause, 2011), and controlling the means of violence (Cooper and Mutimer, 2011). Denise Garcia (2006, 2011, 2014, 2015, 2017) works indirectly on the relationship in relation to the conception, negotiation and creation of conjugated human rights and security norms or humanitarian security norms (2015), like the Mine Ban Treaty, the Convention on Cluster Munitions, and the Arms Trade Treaty (ATT). There have also been studies written on the achievement of full compliance of similar norms, like the Power of Human Rights and the Consistent Power of Human Rights (Risse, 2008; Risse et al., 2013).

The human rights and security relationship is important because it builds upon the study of norms, specially of norms that have been created under its name. This thesis, will focus on going beyond the aforementioned studies to focus on the implementation of a human rights and security based norm, the ATT. The unification of human rights and security will imply understanding that there has always been an underlying association between keeping humans safe whilst securing their space through the use of force. In fact, in many languages, there is only one word for safety and security; seguridad in Spanish, sicurezza in Italian, securite in French and sicherheit in German. Although in English, safety and security have separate definitions; safety is the condition of being free from natural harm or risk, and security is quality or state of being free from social harm or danger. Both definitions stem from the same root and therefore have a clear overlapping meaning.

In a similar fashion to a Venn Diagram, the human rights and security relationship is defined by the juxtaposition of two circles, human rights and security, where the

common elements of the two are represented by their intersection. The human rights and security relationship is composed by the nexus of moral and material interests that each actor has.¹ Such interests are constructed as can be understood through cultural, social, historical and other pertinent values making the relationship a classic case of constructivism. These values construct but are also being constructed by the human rights and security relationship. In this way, the relationship acquires meaning and becomes a representation of the practical and political implications of each actor's preferences in relation to human rights and security, separately and in conjunction. The relationship is also site of negotiation and contestation, particularly influenced by the nexus of material and moral interests that each actor has. The relationship becomes a negotiation between leaders of the state, within the state, or outside the state. The human rights and security relationship turns out to be a platform where actors, directly or indirectly, consciously or subconsciously are influenced by cultural, social and historical facts to manipulate or accommodate the situations whilst constructing a defined connection between security and human rights.²

As will be seen throughout this thesis, the human rights and security relationship is continuously being changed by the actors it involves, while at the same time changing them in return. It is a constant case of deconstruction and construction, a continuous two way process (Onuf, 1998) like the constructivist theory of international relations. Due to its ever-changing nature, the human rights and security relationship is never a finished product, and therefore inherent part of constructivist theory. The construction of the human rights and security relationship takes place in the realm of international norms where the interaction between agents involves diverse state and non-state actors that through socialization seek to advance their interests in order to achieve preponderance. Today, several international norms have the human rights and security relationship in their core. Such is the case of the 2014 Arms Trade Treaty that through the control of security measures it seeks to alleviate human suffering, as it states for the first time in the Treaty itself. These type of treaties have become highly significant, because of the way they challenge the core philosophy of human rights and security and defy state understandings of national security and sovereignty. They also express the latest trends in the evolution of the relationship between human rights and security. The ATT and its implementation, reflect the push for greater attention of the humanitarian aspect of security issues, they exemplify the complexity that exists between actors, that juxtapose to create a new sort of dynamism between civil society, states, and national and international mechanisms that impulse human rights in a typically security led arena.

¹ This Thesis will borrow Rogers Brubaker's (1996) nexus concept to introduce it into the moral and material interests that affect the implementation of the ATT and the human rights and security relationship. In a similar manner, in which Rogers Brubaker's 1996 book reframed how nationalism and minorities interact.

² The human rights and security relationship will more thoroughly explained chapter 2 where the actors, interests and values will be better understood.

In this sense, what this thesis seeks to answer is: **What is the relationship between human rights and security and what does the Arms Trade Treaty, particularly its implementation, reflect about this relationship?** In answering this question this thesis will focus on the hypothesis that the ATT's implementation demonstrates that the human rights and security relationship is defined and defines the complex nexus of moral and material interests that an actor exerts upon human rights and/or security. Through this thesis, I seek to reframe how the actors of human rights based security treaties, specifically the ATT, interrelate. Also, how actors accommodate to the situation depending on the constructed values shaped by the nexus of moral and material interests. Finally, this thesis will also argue how the particular overlay of the human rights and security relationship of diverse actors and the dynamics that lead to such overlap, intensely demonstrate that state actors give rights whilst "controlling the means of violence" (Cooper & Mutimer, 2011, p. 9). In this, non-state actors, NGOs in particular, seek to hamper these actions from within, outside or around state boundaries.

Theoretical stance

To answer the research question, this thesis focuses on these main theoretical strands: constructivism, the English School (ES), theories on global civil society and theories on global governance. Constructivist literature will aid in understanding norms (Finnemore, 1996; Finnemore & Sikkink, 1998; Katzenstein, 1996; Klotz, 1995, etc) and the involved actors, as well as the complex construction of the actor's actions and attitude towards the human rights and security relationship. The mutually constructed social conditions that define the relationship, the norms based on it and the pertinent actors will also be explicated by the use of constructivism. A key constructivist theoretical focus of this thesis will be building upon Margaret Keck and Kathryn Sikkink's work on transnational advocacy networks (TANs) (1998, 1999) and the growing literature focused and based around these networks (Bieler, Higgott, & Underhill, 2004; Burgerman, 2001; Clark, 2001; Florini, 2000; Keck & Sikkink, 1998; Khagram, Riker, & Sikkink, 2002; Matthew, 1999; Price, 1998, 2003, etc). Diverse studies have stemmed from Keck and Sikkink's work and will be used directly or indirectly to explain the evolution of the ATT and the pertinent actors in the context of a human rights and security relationship. For example, Keck and Sikkink have influenced and been influenced: how non-state actors are increasingly improving their role in the evolution of norms (Boli and Thomas, 1999a; Khagram et al., 2002; Price, 2003; Risse et al., 1999; Risse et al., 2013), how norms are shaped (Jepperson et al., 1996), what their causal effects are (Berger, 1998; Jepperson et al., 1996; Kier, 1996; Price et al., 1996) and their strengths and challenges (Kowert and Legro, 1996).

Keck and Sikkink's "boomerang effect"³ referring to the TANs has also led the way for studies on humanitarian or human rights security regimes and their creation (Garcia, 2006; Garcia, 2011; Garcia, 2014; Garcia, 2015; Garcia, 2017) as well as the power of human rights and the persistent power of human rights (Risse et al., 1999; Risse, 2008). The studies on TANs or non-governmental organizations (NGOs) have led to further specialization of the role of these actors. Particularly fitting for this thesis is the literature on these actors and their relationship with norms of arms control and disarmament (Bolton and James, 2014; Garcia, 2011; Knopf, 2012; Mathur, 2011), and international control of small arms and light weapons (SALW) (Garcia, 2006; Grillot et al., 2006; Krause, 2001; Krause, 2002; Sears, 2012). Most of these studies based on TANs and on their impact on norms, assume that these actors are completely independent from the state. In opposition, other scholars have focused on the Neo-Marxist/Gramscian understanding of civil society, where these non-state actors have no independence from the state or from corporations. Anna Stavrianakis's work focuses on NGOs constrained and enabled by the historical and structural grounding of hegemonic social formations due to the organization's lack of independence from the state (2011, 2012, 2013, 2016). Her main focus are NGOs involved in arms trade, particularly on the creation of ATT. Stavrianakis's focus becomes important for this thesis, to further appreciate non-state organizations, their impact and their agency or lack thereof. Throughout this thesis, I will use these theories to show that NGOs hold real power in the implementation of norm, particularly those based on human rights and security as a whole, like the ATT. Through this thesis and its case studies I will focus on building upon the growing number of scholars mentioned above. More on the specific contributions I will make to the field of International Relations, will be further explained with the chapter descriptions further below.

Whether directly or indirectly, TANs have also been explained from different viewpoints, one of them being English School scholars, like Tim Dunne, Thomas Reiss, etc. This stems from the commonalities that constructivism and the English School have: where norms are key factors and actors evolve through history and time. Those commonalities come from scholars from both strands gathering inspiration from each other since the beginning. Both theories talk about society, and some belief that the ES does so in a more structured way (Buzan, 2001). The power of Keck and Sikkink's argument and how and when TANs produce improvements in the behavior of states can be better understood when acknowledging normative aspects of ES and the recognition for the empirical and ethical scope of moral action in a world of sovereign states (Reus-Smit, 2002). This because ES scholars have focused, on something that constructivist might have overlooked: "systematic reflection on the nature of international social and political life, what constitutes ethical conduct in such a world, and how this might be realized" (Ibid., p. 501). Precisely this is why, further along, I will be introducing topics along the lines of morality to comprehend state and non-state interaction in the implementation of the ATT. TANs are not the only topics both

³ Which will be explained with detail in chapter 3.

types of scholars have studied, there is constant cross-fertilization between the two (Ibid.) and this study will also reflect it. As will be seen throughout this thesis, the nature of the human rights and security relationship is constructivist but it has tints of the ES as will be exposed further along.

The two other theoretical strands that I will focus on, global civil society and global governance, will further explain the interaction between structure and agency that occurs within the jurisdiction of the human rights and security relationship and particularly within human rights and security norms like the ATT and their implementation in the referred case studies. Global civil society has numerous definitions which will be analyzed in successive chapters, however they refer to non-state actors that operate beyond the confines of national societies, politics and economics (Anheier et al., 2005) and influence global norms and values (Chandler, 2004b; Chandler, 2004a). The activities of this so called global civil society have allowed for the shift from formal national institutions to new local and cross-border spaces (Kaldor, 2013a, p.148). Such is the case of the landmark initiatives that NGOs have started and led, like the Ottawa Treaty, the Cluster Munitions Ban and the Arms Trade Treaty. Reviewing another perspective on NGOs global civil society literature, will aid in the better understanding of the actors involved in the case studies presented in this thesis. Further than that, these works empower more non-state actors. Additionally, to understand the new interactions between state and non-state actors that are a combination of domestic, international and everything-in between circumstances, theories on global governance will be needed (Avant et al., 2010). Particularly, those focus on governing globally through norm dynamics in multilateral arms control (Muller and Wunderlich, 2013). The compounded understanding of the theoretical works on global governance, global civil society and norm change as viewed from a constructivist formation will give vitality to the understanding of reality that actors, particularly those represented in this study, create through their nexus of key material and moral interests to influence norm evolution and the relationship between human rights and security.

The way in which this thesis is mobilising Cooper and Mutimer's concept of control of the means of violence (CMV) is based on their 2011 work. It is argued that the long term-indirect effect of controlling the means of violence should be "to reduce militarism and promote cultures of peace or... avoid further embedding cultures of militarism"(Cooper and Mutimer, 2011, p.11).⁴ Controlling the means of violence needs to include more radical and inclusive forms of global-local action in order to avoid this embedding. Precisely this is what this thesis intends to do, by focusing on the action of those global-local NGOs and other non-state or mixed actors who aim to reduce the embedded militarism of the Arms Trade Treaty. In this sense, CMV places "a premium on the adoption of strategies that are underpinned by processes of

⁴ For more details on different positivist arms control points of view and on CMV please chapter 3 where the interspace of the human rights and security relationship is explained.

dialogue and mutual understanding”(Ibid. 2011, p.12), processes like the ones that the actors, like CAAT, Redd Barna, the SV and ATT Monitor, on the case studies presented aim to achieve.

This differs from positivists accounts on arms control because it focuses on bottom-up power of civil society actors, as opposed to arms control from below with the militarism logic from above (Turner et al., 2010).The positivist/ problem-solving orientation of academic arms control does not really “attempt to critically reflect on the relationship between practice and traditional arms control theory, on the security framings underlying current policies or on the functions served by the current global architecture of arms control”(Ibid., 2011, p.3).

States give rights because they are international legal entities and have duties given by the international system of law. Rights seek to limit the authority of the government over the governed and established under the context of an International Treaty may comprise obligations for the signatory states. Taking into consideration the Western point of view on adoption of international law (as opposed to states whose focus was not the individual but the state, like the Soviet Union) the rights that are given within the context of this thesis’ hypothesis refer to international human and humanitarian rights. States are giving rights to their population through supporting, creating and internalizing human rights based security laws, like the Arms Trade Treaty. They are also giving rights to the world’s population by signing and ratifying binding international agreements. They give rights to NGOs, through their power as State Parties of the ATT, of managing, monitoring and verifying the Treaty. In some sense, they also give rights to other entities within the state, like the special advocates for example, to confront and freely engage with local and international opposing forces.

In a way, stemming from the understanding that states are a sum of actors and are not unitary forms, when a state gives rights it is giving rights to itself. This because typical definition of a state implies that it is formed by territory, population and government. Then, the state-government part is giving rights to the population-society part of its whole. This connects to with regard to what are the states giving rights in the thesis’ hypothesis. States are “by far the most important legal persons and are therefore the primary focus for the social activity of humankind and thus for international law” (Shaw, 2008, pp.196–197). Legal entities possess rights and duties enforceable to law, according to the UN Charter, the Universal Declaration of Human Rights and other instruments that are not binding but have influenced the creation and implementation of the latter, like the Montevideo Convention on Rights and Duties of States 1933 and the Draft Declaration on Rights and Duties of States. Particularly, the UN Charter and the Universal Declaration establish obligations regarding human rights. With regards to humanitarian rights, states are connected to the Geneva Conventions and to Protocol I, 1977 to respect and ensure the Conventions. In a more detailed sense, the rights that this thesis’ hypothesis refers

to come from the local law that in principle should be based upon a compilation of international human rights based security law like the Arms Trade Treaty. For example, in the case of the UK, this local law is regarded as the consolidated criteria and will be explained further in Chapter 6.

In the evolution of human rights and security in international politics the birth of the concept of human security broaden the understanding of the focus of analysis of security in general. In fact, “the human security agenda made significant inroads to international public policy and social science scholarship, and was an explicit driver of the ATT” (Stavrianakis, 2019, p.75). Human security, its origins and evolution will be further discussed in chapter 2. In the meantime, it important to point that there exists a clear divide between those scholars that feel that human security is a distinct evolution from previous explanations of state centric security and therefore a gain for instruments like the ATT (Garcia, 2014; Garcia, 2015; Bolton and James, 2014) and those that believe that human security is not dissimilar from previous security understandings and actually in many ways it is an accommodation with state militarism (Cooper and Mutimer, 2011; Cooper, 2011; Stavrianakis, 2019). This because human security has lost its way, specially in relation to arms control where arms are controlled from below but with the logic of militarism from above (Turner et al., 2010). This divide helps to appreciate the nature of this thesis’ argument, especially when speaking about states giving rights whilst controlling the means of violence. Theoretically, the definition of this hypothesis, as explained in the previous paragraphs differs from human security in the next way.

First of all, it is important to consider that there is more than one definition of human security and because of this its critics have been wary to fully consider it (Paris, 2001). Second of all, it is true that that human security has aimed to change how security is seen and more importantly who should lead it. It has altered the state as sole owner of security, however because of its nature it has been used to accommodate certain beliefs. Finally, although “human security has chipped away at some of the most egregious manifestations of militarism it has been silent on others, and proved to be an accommodation with global militarism in its various forms”(Stavrianakis, 2019, p.75). When comparing human security to Cooper and Mutimer’s concept of controlling the means of violence, the latter considers embedded militarism, whilst human security does not (Cooper and Mutimer, 2011; Stavrianakis, 2019). Human security has been criticised for being complacent with a military agenda where the state is the key and only actor, as opposed to CMV and how it will be used in the case studies. In this context, what states give rights whilst controlling the means of violence is trying to do is to elucidate what goes on behind the screen. That is, what other actors, non-state and those related to the state or within the state, do to promote cultures of peace and take actions in a global-local manner. With only the human security lens, and its embedded militarism, states have the key and only role in advancing the law, by adding the CMV lens, then other actors seek peace whilst pushing for greater advancement on law implementation from the bottom –up. These

different perspectives will be seen throughout this thesis, through its actors, like ATT Monitor in the Control Arms case, the special advocates, the Appeal Court and CAAT in the UK case, or like the SV and Redd Barna in the Norway case. Effectively this is what the human rights and security relationship represents in each case: how non-state actors balance out state action that is based largely on material interests. Material interests of state actors tend to overcome moral interests, where moral interests are almost always tainted with materiality creating false moral interests. Human security tends to be concerned with the material aspects of the human rights and security relationship, whilst this thesis with the CMV lens allows for a further focus into moral issues and the moral constellation of the relationship, its actors and its interspace. Examples of how moral quality will be juxtaposed with materiality will be found throughout the case studies and their construction of each cases human rights and security relationship.

As will become evident throughout this thesis, but in particular within the theoretical explanation of chapters 2 and 3, this study focuses on moral action more so than it does on materiality. The aim of this being that moral action in constructivist theory lacks explanation and a genealogical overview of the human rights and security relationship will seeks to change this. Particularly, the concept of *false morality* and its link to other theoretical concepts, outside of constructivism, like organised hypocrisy, will built a perspective that will further elucidate the real nuances of morality and the way in which actors use it within the context of normative implementation of arms control instruments. As will be seen below, and also further into this thesis, morality as rationalised here will compensate for the limits and faults of constructivism, principally *false morality*.

In the context of this thesis, *false morality* implies the use of a moral interests in the name of a further non-moral one, or simply moral interests used in a falsely moral way. The concept of false morality is inspired by several opposing concepts used throughout International Relations theory and beyond. First and foremost, false morality is morality based on Mill's consequentialism where the use of morality without it being naturally moral or ethical leads to it being used as an ends to a mean, as a cloak for interests, therefore as being used falsely. This in opposition to a Kantian conception of morality, where actions derive from the action itself and not from the consequences it produces. Second, it could be seen as a combination of a Realist view of morality (Carr, 1945) and a Grotian/English School perspective of Hedley Bull (Bull, 1977). For Carr, morality was seen only as a cloak for great power interests, while Bull criticised Carr for this cynical expression of interest and asked to focus on moral beliefs as influencing the entire evolution of the international society (Carr, 1945; Bull, 1977; Hoffman, 1986). Bull believed that morality could not be generalized, due to the complexity of the situations in which states are involved in (Hoffman, 1986). This of course, based on states but used here as valuable for non-state actors given the great importance and influencing personality that they have in the international arena today.

Viewing morality, or *false morality*, under the umbrella of these opposing theoretical notions, leads to see differences and similarities to a well-known concept: Stephen Krasner's organised hypocrisy (Krasner, 1999). Organised hypocrisy is originally used to acknowledge that sovereignty is in theory utopian but used as an instrument to achieve forceful mechanism where norms that have been institutionalized are vulnerable to material interests (Ibid.). Organised hypocrisy, "allows states and organisations to meet inherently contradictory normative demands simultaneously; thereby, can be seen as a safety valve that helps preserve the credibility of states and organisations, while at the same time preserving order within the international system" (Egnell, 2010, p.467). Actors, specifically states are inclined to pursue a logic of consequences as opposed to a logic of appropriateness. Krasner, through his organised hypocrisy, concludes that the international system is an environment where the logic of consequences is valued more than that of appropriateness. The logic of consequence relates to a rationality where actions serve as efficient means to accomplish a clear target. The logic of appropriateness assumes that actors uphold norms because they are seen as natural, rightful, expected and legitimate (March and Olsen, 2011). This opposing concepts are precisely a similarity with the divergent views of Carr vs. Bull or Mill vs. Kant, explained above and therefore with *false morality*.

To some extent *false morality* is a different way of reflecting upon organised hypocrisy, however the concept has also particularities that make it unique and a contribution to International Relations Theory, in particular to constructivist weaknesses in the realm of arms control. *False morality* springs first and foremost from a philosophical understanding of utilitarian consequentialism as opposed to deontology. This allows for the concept to be in tune with the human rights tradition, as this tradition is embedded in both concepts (Langlois, 2009b). Moreover, it focuses directly on International Relations by standing within realism represented by Carr and Grotian society represented by Bull. *False morality*, as will be appreciated throughout the case studies in this thesis, exists within a spectrum and is based upon the appreciation of actor's moral and material interests in a detailed manner which allow for a deeper recognition of its source and its development. False morality, focuses on actors within the realm of arms control, mainly on a constructivist understanding of it. In the literature, Krasner's organised hypocrisy has already been used to specifically relate to arms control by Susan Hansen and Nicholas Marsh and by Richard Perkins and Eric Neumayer (2015; 2010). Nonetheless, in constructivist work it has not been used. Hypocrisy on its own does figure in constructivist accounts as "a mechanism on the road to compliance with norms" (Price, 2008, p.205) within the setting of the Power of Human Rights (Risse et al., 1999; Risse et al., 2013). The issue is that hypocrisy leaves much to desire, in the way it is used in constructivism. This because "condoning it must be delicate, lest it contribute to a culture that undercuts the very ontological basis of moral change" (Price, 2008, p.205). Also, because constructivist norms literature requires "a move beyond interests-based explanations"

(Stavrianakis, 2016 referring to: Price, 2008; Florini, 1996; Sikkink, 1998).⁵ Although then, *false morality* is based on the comparison of moral and material interests it does move beyond these by interlocking with controlling the means of violence and therefore including a more radical and inclusive form of global-local action to reduce the embedded militarism of the Arms Trade Treaty. Also, organised hypocrisy originally focuses on sovereignty whereas false morality focuses on moral aspects of terminological power.

Because of the nature of the human rights and security relationship and its state and non-state actors, its interspace and its elements, that fall within a spectrum, contingency and complexity accompany many of the claims made in this thesis.⁶ This is precisely because of this nature, but also due to a contingent view within constructivist theory. Also, as will be explained further below, contingency appeals to this thesis's methodology and analytical framework based on genealogy.

Oliver Kessler recently claimed that contingency is actually at the core of constructivists theories because "norms are not the starting point of constructivism, but a specific solution to the problem of contingency" (Kessler, 2016, p.50).⁷ This belief stems from the literature where constructivist theory in international relations states from: Nicholas Onuf's work.⁸ Onuf states, in an effort to counter-act positivists accounts, that contingency is utilized as the co-constitution of human beings and societies, because people make societies and societies make people (Onuf, 2012; Kessler, 2016). Onuf's conceptual framework of rules and rule intermediates and allows us to trace the constructions of social relations (Onuf, 2012; Onuf, 2009). Another major exposé of constructivist theory, Alexander Wendt, also touches upon contingency. For him, contingency is only through interaction within the parts that identity is formed and cultures merge (Wendt, 1999). Further along the constructivist scholars, Friedrich Kratochwill is interested in contingency and how it is created and how the structure of exchange of reasoning is formed (Kratochwil, 1989). "Neither Kratochwil nor Onuf are primarily interested in 'norms' in themselves, rather they use norms to open IR up for social and political theory... hence, their aim is not to test the validity of norms empirically, but to ask how – through a critical engagement with speech act theory – norms relate to contingency and thus to rule"(Kessler, 2016, p.52). In this sense, norms are not the starting point of constructivism, contrary to

⁵ Under Marxist theory, Stavrianakis mentions that in order to move away from this she makes more robust the concept of liberal militarism (Stavrianakis, 2016).

⁶ By contingent I refer to Kessler's definition of single contingency: "contingency is familiar to anyone acquainted with the notion of 'rational choice', it refers to the way in which one actor has to make an informed decision in the face of a contingent reality" (Kessler, 2016)

⁷ Kessler, makes a further division within contingency between single, double and triple contingency. Double contingency is also known as inter-subjectivity and is the one that Wendt and Kratochwill refer to. For purposes of this thesis all contingencies are englobed into one.

⁸ Coincidentally, it is also where a great understanding of how the human rights and security relationship is constructed stands.

popular belief, but they are a solution to contingency because contingency tends to accumulate and therefore law is a “method for controlling contingency” (Onuf, 2009, p.375). Thus, this thesis’s outcomes result contingent because they are based upon a theory that by default has a contingent nature. This can be seen further within the definition of the human rights and security relationship at the end of chapter 2. Also, below, when methodology and analytical framework are explained, it will become apparent that genealogy has also a contingent basis.

Methodology and analytical framework

The method used in this thesis will be content analysis. Content analysis, is currently living its second wave in International Relations and it consists on analyzing documents and communication artifacts- like speeches, graphics and data in general- to address research questions in a robust and systematic manner (Pashakhanlou, 2017). The current method of content analysis combines quantitative, qualitative, manual, and computer- assisted analyses which allow for a fully integrated manner of addressing demanding research questions (Ibid.). I will study White Papers, Treaties, speeches, data on diverse topics taken from diverse research institutions, content within webpages of pertinent actors, etc. Also, some interviews were carried out, to further clarify certain actors’ actions and to add on to a better understanding of the research question.

Interviews validated the empirical understanding from this thesis and therefore below is a reflection on their research design. Four interviews were carried out, via skype. The interviewees were selected because of their relation to the case, weather as crucial part in the actor’s campaign and/or due to their knowledge and understanding of the actor and the Treaty. Initially I would have liked to have one interviewee per case study, however I realised that what I was particularly interested was the way in which these actors’ interacted with international law and the dynamics in between. Because of this, it became difficult to identify which individuals where at the forefront and therefore not as contactable. Unfortunately, I ran into other access issues. These issues span from the fact that my funding did not cover these and therefore finding interviews that could only be carried out through phone or video calls became a challenge. Other access matters came with the case study of chapter 5, Control Arms. I met with one the organisation’s assessors at a talk in the University of Bath. He offered his card and to contact via email. After emailing him and his assistant several times for a more detailed talk, I never received a response. Nevertheless, I did have several successful cases. When discussing the Arms Trade Treaty to validate chapter 4, I was fortunate to have the help of one of my supervisors who knew former ATT President Klaus Korhonen who then got me in touch with the Policy Support Officer at the ATT Secretariat, Sarah Parker. For chapter 6, I talked to Ann Feltham, Parliamentary Coordinator for Campaign Against the Arms Trade and for chapter 7, I spoke with Irene Dotterud-Flaa, Senior Advocacy Adviser for Redd Barna, or Save the

Children Norway. All specialists were interviewed in a semi-structured manner next described.

A semi-structured interview guided the process in a way that research questions were planned but allowed conversational aspects to be incorporated to explore additional details. Also, it became useful to supplement and add depth to my research (Newcomer et al., 2015). The planning of the research questions was based upon the main argument presented on this thesis, especially taking into consideration the human rights and security relationship.

Not all the questionnaires looked the same, “every interview and focus group required its own preparation, thought and practice” (Longhurst, 2003, p.106). I made the conscious decision to modify the interview questions and agenda depending on who I was interviewing, in order to allow the flexibility that the semi-structured interview carries (Newcomer et al., 2015). I created a flexible agenda and prepared for unexpected turns, as advised (Ibid., p.498). In most questions I wanted to give the interviewee a chance to give me his/her point of view without influencing their answers through charged questions. This in reference to literature on semi-structured interviews where “the interviewer prepares a list of predetermined questions, semi-structured interviews unfold in a conversational manner offering participants the chance to explore issues they feel are important” (Longhurst, 2003, p.103). Before starting the questions, I would give a small overview of my research and hypothesis, again without giving too much away or influencing the interviewee’s way of answering. I focused on having prompts ready to allow for the interview to flow (Leech, 2002, pp.667–668). In some cases, like Sarah Parker, I stuck to my questions and there was not that much left to have an unstructured discussion. In other cases, like Irene Dotterud-Flaa, the discussion carried on which then led to her sharing data bases of Redd Barna’s research for a better understanding of the case study.

While I interviewed them I wrote down their answers and also recorded them in case I needed to go back. During the analysis and interpretation phase of the interview, and basing on the fact that semi-structured interviews are flexible then my analysis became flexible and a hybrid between a structured report and a non-structured one (Newcomer et al., 2015, p.505). I came to the realization that my argument on how states give rights whilst controlling the means of violence was being confirmed. All the interviews gave me food for thought, at least in the sense of proving my argument. However, two cases, due to their semi-structured nature, resulted in a clear contribution towards the analysis of my argument. Specifically, in the further research that they enticed me to do. In the interview with Ann Feltham, I learned more about the special advocates and about the close court sessions. The talk with Ann Feltham, gave me good pointers as to finding out more about the special advocates that later became part of my mixed actors for the case study in chapter 6.

In my interview with Irene Dotterud-Flaa, also allowed me to interpret Norway's case study better. I found out more about the dynamic between an NGO and the government and an NGO and the SV. Also, because the research I had done on the topic was in English or with Google Translate translations of Norwegian reports I had the chance to confirm or further expand my thoughts on why the government did the halt of arms. The interview allowed me to settle that my thought of Norway consistently aiming to abide by European and global diplomatic, military and strategic standards was true. Also, to confirm and further investigate the position the government has sought to have with respect to the UN. I believe that these interviews enriched and validated my understanding and my thoughts of the case studies, but it also gave me leads to carry out further research that proved valuable to the strength of my argument.

Genealogy linked with constitutive causation will be used as the analytical framework. Genealogy, as explained below is different from historical narration because it allows for contingency (Bevir, 2008) and therefore mixes well with this thesis's main theoretical stands: constructivism. This in Onuf's sense of the ever-changing, and therefore contingent, nature of International Relations and in the sense that norms are actually a solution for contingency within constructivist theory, as explained above. It also connects well with the nature of the human rights and security relationship, as will be seen throughout this thesis, and with the deconstructive and constructive dynamics represented in the case studies. The following paragraphs detail the importance of genealogy and the tensions, focuses and the causal analysis required for the development of this thesis.

Genealogy, by its name, can be understood as a historical narration. This depends upon which focus is given to the concept of historical narration. For example, historian Hayden White classifies it as "generally poetic, and specifically linguistic, in nature"(White, 1973, p.xxix). Genealogy as used in this thesis is far from focusing on poetry or literature. However, a genealogy is a historical narrative in that it explains an aspect of humanity by showing how it came into being (Bevir, 2008). Genealogy as historical narrative does not necessarily have a clear origin, but it has been correlated largely to Friedrich Nietzsche's *Genealogy of Morals* (Nietzsche, 1887) and more recently Michel Foucault's *Discipline and Punish* (Foucault, 1979). For these authors, genealogy serves by "exposing the contingent and shameful origins of cherished ideas and entrenched practices"(Bevir, 2008). According to Mark Bevir, genealogy is actually something further than historical narration but actually an expression of radical historicism, rejecting both appeals to transcendental truths and principles of unity or progress in history and embracing nominalism, contestability and most importantly for this thesis: contingency (Bevir, 2008). Contingency appeals to genealogy (or radical history) because it cannot explain change by focusing on set principles. History, then becomes a series of contingent events, open to contestability and suggesting that there are countless ways in which an action may be interpreted. Due to contingency, genealogy and those who practice it continually question. This

does not mean that by questioning there is a rejection or a denial of its validity, unless it is actually incompatible with recognition of its own particularity. Both Nietzsche and Foucault search for contingency and complexity. Foucauldian genealogy, especially as used in International Relations, appeals to the use of questions in certain ways, as explained below by Srdjan Vucetic. Foucault's work can be actually seen as developmental historicism, as opposed to a radical one, and studies of governmentality often owe more to modernist sociology than to genealogy (Biebricher, 2008).

Genealogy in IR, has been used since the early 1990s (Campbell, 1992; Bartelson, 1995; Price, 1995; Jackson, 2006; Vucetic, 2011; etc) based on Michel Foucault's work, specially his early "archaeological" analysis of discourse and discursive regimes, his later work, a more explicitly "genealogical" study of power/knowledge relations and governmentality, and finally his examination of processes of "ethics," focusing on sexuality (Foucault, 1972, 1973, 1979, 1980, 1985 in Clifford, 2018). As a methodology, genealogy is deeply entrenched in construction and deconstruction and therefore in the constructivist theory by focusing on conceptions bound to discursive order and on the creation or "genesis of modern political identity" through a historical analysis of its constitution and emergence (Clifford, 2001, p.151). Political genealogy, as used in the social sciences, traces the forgotten origins of our present in the institutions of government and the forms of identity constructed therein (Clifford, 2018). Genealogy is political because it focuses on the established ideas and institutions of traditional theory, like government, power, freedom, rights, etc (Clifford, 2018). In its effects, genealogy is also political, by revealing the historical contingency of established values and practices and with it destabilizing the mechanisms of government (Ibid.). This creates a deconstruction that traces the roots of identities and reveals the historical contingencies of emergence (Ibid.). In IR, a genealogical methodology is equipped to carry multiple narratives, because it can simultaneously be "political, ontological, epistemological and ethical" (Vucetic, 2011, p.1312) and because by reshaping and expanding the terms of debate, it enables different questions to be asked, enlarging the space of legitimate contestation (Rose, 1999 in Clifford, 2018).

When seeking to understand the human rights and security relationship and the particularities that implementation of the ATT reflects about the relationship, genealogy becomes an effective method of analysis. This is because of the constructivist nature of the relationship and the range of values that give it its meaning. Genealogy will give the human rights and security relationship its genesis and identity through a historical, cultural and social analysis of its constitution of each state and non-state actor in each of the cases presented in this study. This framework of analysis will allow to see the constructedness and deconstructedness of the relationship, through the revelation of the roots and historical contingencies of the nexus of moral and material interests that conform each actors' particular relationship. However, because of the further inquisitive nature of the research

question of this study and due to the causal foundation that constructivist theory of IR is based upon, constitutive causation is needed to further complete the analytical framework of study.

Genealogy will respond to questions like “how did X get here?” or “how did Y become possible?” (Foucault, 1980 in Vucetic, 2011, pp. 1302–1303). In doing so, the answers will be inclined towards a causal analysis. Causal and non-causal analytical approaches have been part of IR theory for many years, according to some scholars (Hollis and Smith, 1990). Constructivism has been set to the side of non-causality (Ibid.). This has affected constructivism which has resulted in various explanations to prove otherwise. Milja Kurki (2006, 2008) argues that the reason causality has been rejected is due to an uncritical acceptance of the Humean conception of causation and that it needs to be broken to reach a more holistic and encompassing understanding of causal relations in IR.⁹ Kurki concludes that constructivists have actually not yet rejected causality, but do see norms as constitutive and not as causal (Koslowski and Kratochwil, 1994). For her, Alexander Wendt is the only openly constructivist theorist to have made efforts to understand causation (Wendt, 1998), although he placed causal and constitutive in parallel sections. Today, more constructivists are further understanding causation and seeing it in both a constitutive and causal way. Richard Lebow (2009) has developed constitutive causation, that directs attention to the social processes and interactions, confluences, accidents and agency that mediate between them and the outcomes that interest us (Ibid.). Lebow’s constitutive causality directs our attention to the mechanisms by which causes have effects and like Kurki, have a more comprehensive cause than the Humean conception. Lebow’s approach heightens our sensitivity to causal chains and provides an analytical framework for studying them (Ibid., p.5). Constitutive causality has the potential to lead us step-by-step to ‘deep’ causes of political outcomes (i.e., identities and other frames of reference), and forward again to an ever-widening, more comprehensive search for connections and causes (Ibid., p. 5). Like this, a much richer method to this study is set: founded on following content analysis method with an analytical framework based on genealogical constitutive causality that will allow for a holistic view and will coincide with constructivist theory to give a fuller approach to answer my research question.

The genealogical constitutive analysis of the human rights and security relationship will pave the way for a unique contribution to the field of International Relations and particularly to constructivist theory, as it is “never finished product” (Onuf, 1989). First and foremost, I will add a new, more defined view of the human rights and

⁹ According to Kurki: “The question that Hume was grappling with was “how can we really say we know anything for certain, how can we justify science and knowledge?”. For Hume the solution to the problem of knowledge lies in recognising that all knowledge arises purely from experience; the bases of knowledge and the limits of our knowledge are defined by what our perceptions transmitted to us” (Kurki, 2008, p.34). It is important to mention that David Hume’s work is not delved in its entirety due to lack of space and also to the focus of this thesis.

security relationship that will give it strength and preponderance to understand the relationship as a whole, as opposed to separately. What will be gained from this view will be a more holistic perspective, with a deeper genealogical analysis that considers all the possible causes, from different realms of reality, different levels of analysis and from different sources. Also, a better view of the continuing deconstruction-construction process of actors' actions and with it, a better predictability of the situation's future. This because, similarly to what Sasse concludes in relation to the security-rights nexus (2005, p. 689), the recognition of the human rights and security relationship will aid in the further development of the interpretation and further implementation of the norm. This will aid those actors who are interested in advancing the norm, whether directly or indirectly. I will add onto the literature of IR by going beyond previous studies of human rights and security norms to focus directly on the human rights security nexus. I will encompass existing constructivist theory to understand the nexus of key material and moral interests that compose the human rights and security relationship and define further the implementation of the ATT. The analysis of actors, state and non-state, will also further contribute to viewing the overall implementation dynamics of a human rights and security norm with a clear human rights and security lens.

I use the genealogical approach as a way of problematizing the relationship between human rights and security and how the implementation of the Arms Trade Treaty is understood through this lens. Genealogy allows me to see the deconstructive and constructive nature of the relationship, the actors and the dynamics that take place in between solid, permeable and semi-permeable boundaries. The construction and contingency of morality in relation to structured and un-structured forces that surround the human rights and security relationship are better understood through a genealogical set of questions that connect to causality and to multilayer definitions of the relationship itself. Therefore, genealogy is important because as a philosophical stance it conceptualizes the problem between human rights and security in its ever-changing and construed way.

Genealogy as an analytical framework will be operationalised first through how the chapters are divided and how I go about explaining the human rights and security relationship, through how I divided the philosophical and theoretical, and in many ways historical, views of human rights and security whether within International Relations or otherwise. It is also operationalised simply by relating contingency as an element that coincides in both genealogy and constructivism. That is, methodology, analytical framework and theoretical stance work in unison. Also, by the division, for example in chapter 3 into the interspace and then the actors and interactions of the relationship and by englobing the background with a chapter on the actual mechanisms and implementing particularities of the Arms Trade Treaty in chapter 4. Furthermore, the genealogical methodology will be operationalised in the empirical chapters by the way each of these was divided in a similar fashion: setting of the

challenge, then the construction of moral and material interests and the particular overlap of the human rights and security relationship.

In a more detailed way, the methodology will be operationalised by utilising its contingent nature and applying it to the case studies. This was achieved through questioning: “how did X get here?” or “how did Y become possible?” (Foucault, 1980 in Vucetic, 2011, pp. 1302–1303). The answers to these questions brought about a causal analysis, that along with the contingency of genealogy and the contingent nature of constructivism followed results that landed along the spectrum of the human rights and security relationship. These internal questions and their results gave hence to answering the main research question set for this thesis.

Also, the types of actors that have been found and defined throughout this work, like mixed actors, in chapter 5 and 6, or within state actors, in chapter 7, show the genealogical result of the analytical framework used, particularly in their contingent nature as well as in the multilayeredness of actors and activities and in the semi-permeated boundaries of state and non-state actors in norm dynamics. The same can be said for the way in which false morality developed in each case study. In chapter 5, Control Arms through the ATT Monitor Project was found to be flirting with false morality and therefore displaying the complexity and contingency of morality. In chapter 6, mixed actors and the state as a non-unitary entity intertwine to emphasize the complexity of state actors utilising false morality to give rights whilst controlling the means of violence. In chapter 7, within state actors and state actors use a paradoxical morality deeply related to a certain model of approaching civil society within the state. The above will be better detailed within the framework of each case study. Through a genealogical and constitutive causal analysis, the evolution of changes and the tension between state and non-state actors within the realm of the human rights and security relationship became apparent and allowed for the nuisances of NGOs and other actors involved in treaty implementation, directly or indirectly, to show. By operationalising through questioning actors and their nexus of moral and material interests where demonstrated to be ever-changingly constructed and therefore, contingent. As will be seen by the end of this thesis, a genealogical advancement within a constructivist theory will demonstrate the hypothesis that states give rights whilst controlling the means of violence.

Description of chapters

The chapters described below will touch upon the delineated contributions of this study. This thesis is divided into two main parts: theoretical and case studies. Theoretically and in order to coincide with constructivist theory, I will begin by deconstructing the human rights and security relationship. Chapter 2 will do so by concentrating on the genealogy of security and human rights. I will delve on the threat-safety axis that puts the two ideas together and further connects with sovereignty. I will look at the evolution of the axis by engaging with IR topics like the

Responsibility to Protect and human security. The understanding of the universality and cultural relativism will come into play followed by the views of 20th century philosophers. Human rights norms and security norms tied to human rights will clarify the birth of humanitarian norms as well as the evolution of human rights within International Relations theory. This chapter will end with the reconstruction of the two concepts and how it leads to defining the human rights and security relationship. Chapter 3 will be about continuing the deconstruction of the interspace and the type actors involved in the human rights and security relationship. First it will focus on the interspace in relation to arms control, specifically in humanitarian security regimes, disarmament diplomacy, contemporary arms control, controlling the means of violence, humanitarian arms control and finally small arms and light weapons. Second, this chapter will focus on the key agents for the advancement of the relationship. Firstly, by looking at state's actions in dialogue, then by explaining TANs. The rise in importance of non-state actors will become apparent and with it the explanatory parts focused on global civil society and global governing through multilateral arms control. Chapter 4 sits somewhere in between theory and practice and it will be dedicated to the ATT and the theory that surrounds it. This chapter is an opportunity to understand how the treaty came into being and how its implementation or lack thereof works. This chapter delves into the practicality of the Treaty and focuses on explaining its inner workings. This will be crucial for understanding subsequent chapters.

Chapters 5, 6 and 7 are the case study chapters. Three cases have been chosen: an NGO pushing for Treaty fulfilment, a large arm exporting state being held accountable, for apparent fail to implement the Treaty, by an independent NGO, and a small arm exporting state intertwined with state and non-state actors to achieve Treaty implementation. They have been chosen to exemplify important sides of the argument presented on this thesis and to shed light on how the human rights and security relationship involves actors beyond the state, and beyond the international level of analysis. The different combination of actors in each case will also allow to appreciate how the nexus between moral and material interests are used as handles to construct, subconsciously or consciously, norm implementation dynamics. Chapter 5, focuses on the NGO/TAN created alongside the ATT, Control Arms and its role as *norm implementer* of the ATT. The interests of the member states of the Treaty are also taken into consideration. Control Arms was chosen, due to the influencing role it has obtained in the Arms Trade Treaty implementation. This chapter will first centre on the methods and mechanism that Control Arms uses to achieve implementation of the ATT through the ATT Monitor reports. Then it will focus on the moral and material interests that the organisation is constructing with particular emphasis on its reformist nature. The final part of this chapter establishes a figure of the particular overlay of the human rights and security relationship alongside its implications. This study on Control Arms, will aid in the genealogical understanding of the evolution of the human rights and security relationship, and how the particular overlap that this NGO creates demonstrates that a non- state actor exerts pressure on the relationship

and therefore onto the actors it is involved with. In this context, Control Arms-ATT Monitor shows that the human rights and security relationship is recognized but still in the midst of improving the control over the means of violence. Importantly, chapter 5 will introduce and define the concepts of *norm implementer* and *false morality* that will be used to describe actors and action in the rest of the empirical chapters.

Chapter 6 is the implementation of the ATT in a large arm exporting state: the UK. The case explicitly focuses on the 2017 decision of the High Court and the 2019 appeal on arms exporting to Saudi Arabia. A local NGO, aided by other local and international NGOs, led the race against the UK government to seek to stop the arms exports to Saudi Arabia given its direct effect on the Yemen War. This case was chosen, due to the particular characteristics that the actor has, like being a champion of the ATT during its creation whilst choosing to ignore its precepts and preponderate domestic interests, in the case of arms exporting to Saudi Arabia.¹⁰ This case also demonstrates, that states give rights whilst controlling the means of violence. This case, also favours the contribution on TANS that develop within domestic boundaries and defend, whether consciously or subconsciously, an international norm and therefore the human rights and security relationship. Explicitly, the first part of this chapter will explain the details and the constitutive causality of the High Court decision of 2017 and the 2019 appeal, led by Campaign Against Arms Trade (CAAT).¹¹ The second part centres on the nexus of material and moral interests that are ever-changing and constantly intertwined. It will explain the state's *false morality*, as well as the morality of civil society needed to balance out the human rights and security relationship. It will also, focus on the nexus and how it is largely defined by answering to the question of why states export arms despite belonging to IHL/HRL instruments, like the ATT. The final part focuses on the figure of the particular overlap of the human rights and security relationship. It will highlight the importance of norm implementation dynamics and the denominated *norm implementers*, that in this case are either transformative NGOs or indirectly *mixed non-state and state actors*.

Chapter 7 focuses on a small arms exporter, Norway and on the state and non-state actors that aid in Treaty implementation. As these actors construct and are constructed by global and local mechanisms and social interactions, the intricate intertwined set of reasons becomes apparent. This is what the case of Norway, and the halt of sales to Saudi Arabia and United Arab Emirates, will exemplify. Norway was chosen because it represents state actors that explicitly hold the human rights and security relationship whilst holding their moral and material interests in an apparent parallel position. Norway's worldwide peacemaker and peacebuilding reputation and its involvement with regional and international institutions feed its security, foreign policy and military strategies and give it a particular position to apply the ATT.

¹⁰ Which are in many ways found in other large exporting countries like Germany or even the US. This especially given the recent Kashoggi case and the partial halt of US military aid to Saudi Arabia.

¹¹ CAAT is not the only UK NGO with interests in the HC decision, as will be seen in the chapter.

Although it is not one of the larger exporters of arms, its policies have allowed for it to become a specific actor in security and peace measure. Also, its peculiar way of managing non-state actors' funding gives Norwegian NGOs a peculiar role in the human rights and security relationship. This case will show the implications of how a diverse composition of actors, actions, and the background of both conclude in a particular overlap of the human rights and security relationship. All in all, Norway's idiosyncrasies are what will be explained in this chapter and directly and indirectly correlated to the vision of giving rights while still controlling the means of violence. The first part of this chapter centres on the analysis of the implementation of ATT, whilst explaining the issue. To do so, Norway's military strategy will be elucidated and the role of *within-state actors as norm implementers* will be introduced. Also, the special role of a reformative NGO, Redd Barna, in achieving the halt of arms will be studied. The second part of this chapter will focus upon Norway's moral and material interests based on its identity. *Paradoxical false morality* will also be explained. The Norwegian Model and how it is all reflected upon Norway's interests will be mentioned. The final part of this chapter concentrates on the figure that particular overlap that the set case has created for the human rights and security relationship. Lastly, this part will also explain the constitutively causal implication of this overlap locally and globally over the ATT.

Finally, chapter 8 will draw the conclusions and present the findings of this thesis. Without giving much away, it can be said that, after exploring the human rights and security relationship amongst diverse actors that implement the ATT, the relationship is multilayered and complex. All through these cases, it can be appreciated how diverse actors have contributed to the deconstruction and construction of the relationship. This is in turn contributing to the evolution of the norm. The co-creation of the relationship by actors involved at an international and domestic level has exemplified the continuous exchange between structure and agency needed for the construction of the human rights and security relationship.

Chapter 2- Genealogy of the human rights and security relationship

Introduction

Today, if one gives close attention, it is barely possible to conceive security without rights or rights without security, at least in International Relations.¹² This union stems from current conscious and subconscious efforts from diverse state and non-state actors to continue valuing human rights more than in the past. These efforts are, in many ways, born from the norm cascade caused by contemporary humanitarian and human rights and security norms, like the First Geneva Convention.¹³ These efforts, are also part of a silent unguided campaign to strengthen equality among the concepts. More importantly, these efforts are the result of a constructed socialization that has been evolving for centuries. Precisely this construction leads to wonder where and when it all started? Was there even a start, and exact point in time and place where security and human rights collided? This point is hard to define, however it is not impossible to trace back and genealogically speaking study the evolution of the relationship.

The genealogical journey of the human rights and security relationship, that this chapter will carry out, is composed of the evolution of both ideas separately but also united. The genealogical framework will be operationalised in this chapter, by focusing on how the human rights and security relationship became possible. This will exhibit the contingent and constructive nature of both the methodology used and the actual relationship. It will also correlate to the contingent nature of constructivist theory as explained in Chapter 1. Interestingly, as will be seen throughout this chapter, even when studied isolated there is some underlying contiguity. The previous chapter introduced the notion of the human rights and security relationship and the characteristics that surround it. The relationship was only briefly defined and

¹² Rights and security are conceived together, whether wanted or not. For example, Timo Kivimäki's recent study on how in the past two decades Western military involvements in conflicts have been justified making reference to the protection of the rights and lives of the civilians involved. See more on (Kivimäki, 2019b) and on the data this book is based on (Kivimäki, 2019a).

¹³ Norm cascade, is the second phase in the lifecycle of the norm described by Finnemore and Sikkink (1998). The first stage, norm emergence or norm building (Ibid., pp. 896–901), focuses on where norms come from and which actors are involved, with what motives they act and what is the dominant mechanism they use. The actor at this stage is the norm entrepreneur that uses organizational platforms to obtain its task. The norm entrepreneur is an agent or group of agents that have strong notions about appropriate or desirable behaviour in their community (Ibid., p. 896). To reach the second stage, which is norm cascade, the norm needs to become institutionalized in a set of international rules; Finnemore and Sikkink have named this the tipping point (Ibid., pp. 900–901). This happens once the norm entrepreneurs have persuaded a critical mass of states to become norm leaders and adopt new norms (Ibid., p. 901). Up to the second stage, domestic changes have not really occurred. It is right after the tipping point and the adoption of the norm by the state that the norm cascade begins by contagioning others into doing so. Finally, internalization, at the end of the norm cascade, achieves its task mostly through professional domestic actors like lawyers, doctors, economist- professionals in general-, and bureaucrats.

therefore, for better perception, it is necessary to approach the relationship and the concepts that compose it in a genealogical manner by analytically unpacking. The deconstruction of security and human rights as separate entities will bring to light how the two came to be understood, but also how both their roots are tied to safety. This is what this chapter intends to do in order to focus on the genesis of both concepts particularly in IR theory.¹⁴ First focusing on the threat-safety axis as what weaves the two ideas together and as part of the paradigms of security that aggregate to its meaning. The study of security sets the premises for the connection with other topics like sovereignty and how it has evolved in the particularly in the last decades. Another crucial link that brings the relationship between human rights and security together occurs in a much deeper manner: human security. The notion of human security will be seen as a segway between human rights and security. The concept will be unpacked which will lead to the unpacking of human rights as well.

The genealogy of human rights, pertinent to understanding the human rights and security relationship, is composed by the evolution of them, particularly in an IR view. It is also composed, as will be also seen in this journey by their universality and cultural relativism, or lack thereof. The works of John Rawls will be studied in order to further understand universality, fairness, autonomy and their social constructedness. Furthermore, this chapter will focus on the recent evolution of the human rights and security relationship, but overall on the evolution of the separate entities and how they became, or always were, one. Human rights norms and security norms tied to human rights will be explained in the birth of humanitarian norms. This results especially important for norms like the Arms Trade Treaty are located at the interface of state security, international security and universal human rights. To further recognise this, a focus on the evolution of human rights in International Relations Theory will be given. Understanding realist, liberal and particularly constructivist views on human rights will allow to further see where the human rights and security relationship comes from but also it will set a basis for the analysis of the actors in the case studies presented in this thesis. Finally, this chapter will re-construct the deconstruction of the two ideas and begin the definition of the human rights and security relationship. This definition will also aid the analysis of the case study chapters.

Tying security and human rights

Several ideas stemming from diverse philosophical and international relations theory link security and rights together. It cannot be said that these thoughts do so in

¹⁴ It is important to mention that at times oversimplification of the explanations for concepts and theories surrounding security and human rights might be palpable, however, it is only so the focus can be on the construction of the human rights and security relationship. Also, theoretical stands belonging to the Realist, English School and International Society are used to explain paradigms of security, this is only to obtain a fully encompassed understanding of the concept and therefore of its constructiveness and its role in the human rights and security relationship.

an orderly fashion or that it is absolutely tangible, however they are definitely inherent to human rights, to security and to both. When the interweaving of human rights and security started is difficult to precise, but looking with a genealogical perspective at the historical philosophical aspects of the two sets the stage for a better understanding of their confinement. This section seeks to further understand how security and human rights are tied together and perhaps even how they are at times untied depending on the construction surrounding them.

Safety, threat and the paradigms of security

As mentioned briefly in Chapter 1 both concepts in the human rights and security relationship are deeply connected by the word safety. This because, on the one hand, the contemporary Western notion of security stems from a chimeric combination of the ancient Athenians' intention to prevent the destruction of their empire, of the religious connotations of the Roman *securitas* and of the Hobbesian intention to prevent civil war (Arends, 2008, p.263). On the other hand, human rights stand to avoid vulnerability of individuals by protecting and guaranteeing safety. A further step into the connection between human rights and security leads to the reasoning behind both concepts: threat. If individuals, or groups of them, would not feel threaten then the reasons for safety would subside. Threat is understood as a precondition and anchored in Thomas Hobbes's notion of fear. In fact, rights, for Hobbes were an extension of the natural human desire for survival (Herbert, 2002). Survival, meant survival from the constant threat of war, were peace was only a pause in between wars. This perception of threat, and therefore of safety was born somewhere between the Renaissance and the Enlightenment in the midst of the philosophical detachment of philosophy from theology in the 17th Century, and became the basis for International Relations Theory, particularly for realist theory.

To understand the concept of security in IR, it is fundamental to understand that it has evolved throughout the years and that it can be approached with three different focuses: national, international or personal/human/cosmopolitan. National security based is the realist approach, international security based is the rationalist and the one that views personal insecurity as an international problem is linked to the cosmopolitan approach (Jackson, 2000, pp.196–199).¹⁵ The concept of sovereignty is also very relevant for security, particularly for classic theories where the state is the principal carrier of security. There was a dramatic change that followed the birth of the nation-state, with the signing of the Treaty of Westphalia in 1648. First there were kings, and sovereignty and therefore security entirely fell on his or her person. As centuries went by, sovereignty moved to the people and with it security too. The end of the 18th century, influenced by a threat like perception of security, represented a major break in these security traditions. The French Revolution and the American War of Independence, allowed sovereignty to be entirely dedicated to the state. The

¹⁵ Jackson actually refers to these three paradigms as approaches to the ethics of security.

enlightenment had revealed that people gave the right to being secure to the state in order to receive protection. The 20th Century has been the cradle for change, and for some scholars security now revolves around humans as will be further developed in the subsequent part of this chapter.

From a Hobbesian, realist perspective national security can be defined as the ability to withstand aggression from abroad (Luciani, 1988, p.151), threat from abroad. A nation is secure to the extent that it is not in danger of having to sacrifice its values and engage in war (Walter Lippman in (Buzan, 2008)). The state provides national security by building and deploying armed forces for national defence and for the deterrence of any conceivable foreign threats (Jackson, 2000). States are the primary source of threat but also the primordial sources of security. Hobbesian threat, looks at the lack of protection as insecurity. Insecurity is a potential or actual threat, danger, or menace presented by other people, whether individuals or groups, internal or external (Jackson, 2000, p.189). With insecurity the vulnerability of living in society is identified and therefore the need for safety becomes a key condition of human relations (Jackson, 2000; Jackson-Preece, 2011). It also becomes a condition for the state to guarantee and provide safety, nationally and personally, primarily through the use of force via police and military power, secondarily through financial, industrial, organizational, technological, scientific, educational, and other instrumental means (Jackson, 2000). Safety is needed to enjoy the advantages of living in society, whilst limiting the risks that come with it. Hobbes response to counteract threat and obtain safety was the Leviathan, a sovereign that protects its people.¹⁶ The Leviathan would protect personal security through a security arrangement that would lead to a problem of national insecurity or international insecurity amongst states. This security dilemma, defined IR theory and continues to do so today. Hedley Bull's anarchical society of states stems from this dilemma, were safety becomes the human condition and security means "no more than safety: either objective safety, meaning safety which actually exists, or subjective safety, meaning safety which is felt or experienced (Bull, 1977, p.18)".

From a rationalist point of view, the concept of security widened, long before it achieved a certain fashionability following the end of the Cold War; in the late 1970s the Independent Commission on International Development Issues (ICIDI), chaired by former West German chancellor Willy Brandt, had already generated a report discussing the matter (Hough, 2014, p.13). Further back, it was actually the covenant of the League of Nations was the precursor where a global society of states gained ground. Rationalism conceives that the international society should also provide

¹⁶ There is a distinction to be made between personal and state security. Jennifer Jackson- Preece and Robert Jackson similarly describe the differences: personal security refers to individual safety from the threat of harm from others, whilst state security refers to the ability to protect itself from external threats, like intervention for example. Both ideas are related, although in practice security of the state does not always translate to personal one. See more: (Jackson-Preece, 2011; Jackson, 2000). Furthermore, Barry Buzan argues that security is interdependent and therefore cannot be isolated at any level (Buzan, 2008).

security. The sources of threat are within other member states, or member states, threat remains within the international society of states. The UN Charter is the assumption that within the international community, which all states belong to, norms are to be respected. International security can be seen as the general condition of peace, order and lawfulness within the society of states (Jackson, 2000). Furthermore, from a Kantian universalist point of view, security is focused on the person, where all individuals have universal rights to be safe and secure (Kant 2018 (1790)). This so called cosmopolitan view is the basis of human security.

Evolution of human rights and security in international politics: human security and R2P

In IR, the post- Cold War period brought ongoing debates over the issue of state sovereignty and intervention that led to wonder whether there had been a shift towards universality of rights. These debates explain the birth of the concept of human security. Human security has broadened security analysis from territorial/national security to the security of the people. It connects personal security, state security and security of society together. The idea behind human security comes from Immanuel Kant's categorical imperative, where moral judgement is universal and from his Perpetual Peace where the importance and international and cosmopolitan preponderance of the security of individuals is highlighted: "Because a community widely prevails among Earth's peoples, a transgression of rights in one place in the world is felt everywhere, consequently the idea of cosmopolitan rights is not fantastic and exaggerated, but rather an amendment to the unwritten code of national and international rights, necessary to public rights of men in general; only such amendment allows us to flatter ourselves with the thought that we are making continual progress towards perpetual peace (Kant 2003 (1795))". Kant's aim was to have human rights and security realized by governments worldwide, whilst the ultimate goal of principles of national security and international security is to contribute to the idea of a personal security based on a cosmopolitan conception of rights (Hernandez, 2018).

The actual concept of human security sprung from the 1994 in the Human Development Report (HDR), published by the United Nations Development Programme (UNDP). Human security is defined in many different ways but according to HDR it "recognizes the interlinkages between peace, development and human rights, and equally considers civil, political, economic, social and cultural rights" (UNDP, 1994). Due to the mixed nature of its definitions, it seems capable of supporting virtually any hypothesis (Paris, 2001), which can be its success but also its demise. For some the concept may be seen as vague and prone to lose its strength when understanding security (Paris, 2001). However, the idea that individuals can be subjects of international law and that human rights should be an integral part of foreign policy and international relations has led to an increasing use of the human rights language in international politics as some authors claim (Schmitz and Sikkink,

2012, p.683). Currently human security is widely used in international relations because of its facility in explaining security without using the state as its main actor. Today, adopting the concept is seen as a radical and transformative move by supporters (Garcia, 2011; Williams et al., 2008; Thakur and Maley, 1999).

In practice, human security has evolved in many ways, for example in the shift of the understanding of interventions and sovereignty. The end of the 20th Century witnessed great tragedies of human rights violations. The horrors in Rwanda, Somalia, the Balkans and East Timor triggered some states to realize that intervening and violating a states' sovereignty was perhaps needed to save human lives. This time was also the eye opener for major cases of protracted refugees and internally displaced persons that were more difficult to reach and to get humanitarian aid. Sovereignty would have to be violated in order to reach those in need and so in 1997 the Guiding Principles on internal displacement were put into place; compiling the relevant human rights and humanitarian law to guide states. The works of Francis Deng and Roberta Cohen on these principles were key to the evolution of the responsibility to protect by placing sovereignty as responsibility, responsibility on part of the government to protect (Cohen, 1991; Deng, 1999). In 2001, the Canadian government played a key role in realizing that the concept of sovereignty perhaps needed to be revalued. Canada created the International Commission on Intervention and State Sovereignty (ICISS) which would see the birth of the concept of the responsibility to protect or R2P backed up by UN member states in 2005. R2P places responsibility on the state to protect individual security, human security. The state is to protect its citizens from genocide, war crimes, ethnic cleansing, and crimes against humanity. When a state fails to do so, because of lack of means or precisely because it itself is going through civil war, then the international community has the responsibility to protect those in need. This means that in extreme cases, a state's sovereignty can be breached, in a non-military way, in order to protect the individuals' human rights. R2P also provides a framework for the UN's Security Council to be used as a last resort to prevent violent crimes and protect civilians. In the past 8 years, the UN's Secretary General, through reports and resolutions, has expanded the measures the R2P covers and has called on States, NGOs and International organizations to follow them¹⁷.

For some, R2P is: "the most dramatic normative development of our time" (Thakur and Weiss, 2009, p.22) or the pivotal document on the place of human rights in International Relations for others (Dunne and Hanson, 2009). However, it has been heavily criticized for what some understand as misuse. Roland Paris points out that:

¹⁷ Implementing the Responsibility to Protect: Report of the Secretary-General 2009; Early warning, assessment and the responsibility to protect: Report of the Secretary-General (2010); The role of regional and sub-regional organizations in implementing the responsibility to protect: Report of the Secretary-General (2011); Responsibility to Protect: Timely and decisive response: Report of the Secretary-General (2012); Responsibility to protect: State responsibility and prevention (2013); Fulfilling our collective responsibility: international assistance and the responsibility to protect: Report of the Secretary-General (2014) (Ki-Moon, 2009; Ki-Moon, 2010; Ki-Moon, 2011; Ki-Moon, 2012; Ki-Moon, 2013).

(1) on one hand, if there is no intervention in the face of looming mass atrocities, R2P is likely to be criticized as phony or hollow, like in the case of Syria; (2) on the other hand, if a preventive operation is launched and achieves its initial goal of averting an atrocity, it is still likely to be judged harshly like in the case of Libya (Paris, 2014; Paris, n.d.). The third pillar upon which R2P is based that states military intervention as a last resort has caused major misunderstanding about its implementation. For example, some scholars and policy practitioners have highlighted the need for greater 'political will' among leading countries to take decisive action to avert mass killings (Bellamy, 2009, 2009; Brown, 2010 in Paris, 2014). Others have called for improved criteria and processes to authorize the use of armed force for R2P purposes (Evans, 2012; Pattison, 2010; Government of Brazil, 2011 in Paris, 2014;); or for the development of greater 'institutional capacity' within international and regional organizations and national governments for responding to such emergencies (Bellamy, 2013; Buchanan & Keohane, 2011; Morada, 2011; Zenko, 2004 in Paris 2014). Finally, the success stories and criticisms of R2P evidence the fragility of the concept and point to its nature where human rights and security seemed to be intertwined. Despite this, R2P is important to consider first of all, because of its normative advancement, particularly within the boundaries of human rights protecting norms. Second, because the change in the conception of humanitarian intervention has allowed for a greater importance on non-state actors, like NGOs and International Organizations and their ability to protect of refugees and displaced persons. Human security, through R2P, has empowered non-state actors as a global civil society that is based on a cosmopolitan understanding of rights, security and the international state system.¹⁸

Beyond Roland Paris's criticism of human security and R2P, human security, as was explained in chapter 1 has divided scholars. Some see it as a clear evolution from previous explanations of state centric security (Garcia, 2014; Garcia, 2015; Bolton and James, 2014) and others see it as similar to previous ways of understanding security (Cooper and Mutimer, 2011; Cooper, 2011; Stavrianakis, 2019). Human security has been criticised for being accepting of the military agenda. What will be seen throughout this thesis, particularly in chapters 5,6 and 7, will be a sense of human security more aimed towards controlling the means of violence. This, to focus more on the efforts by actors to promote cultures of peace and take actions in a global-local manner.

Universality and the cultural relativism of human rights

As discussed before, part of the basis for human security and therefore R2P is Kant's universality that became the core of liberalism. This universality has been contested, particularly in the case of rights (see more in (Donnelly, 2003)). Conceiving

¹⁸ The concept and theory behind the concept of global civil society will be further developed in the following chapter.

human rights as universal means that all states consider them firmly established part of international law and politics (Ibid.). This conception becomes difficult because of the cultural relativism that rights carry. Raymond John Vincent argues that because of cultural relativism, rights cannot be universal due to the fact that the non-Western world does not necessarily share Western values (Vincent, 1986, p.37). Cultural relativism is essentially an anthropological and sociological concept loosely grounded in the theory of moral relativism (Shestack, 1998, p.228). Cultural relativism entails that rules about morality vary from place to place.¹⁹ Vincent, claims that there is no universal morality, because the history of the world is the story of the plurality of cultures, and the attempt to assert universality, or even Kant's procedural principle of universalizability, as a criterion of all morality, is a more or less well-disguised version of the imperial routine of trying to make the values of a particular culture general (Vincent, 1986, pp.37–38). In Vincent's eyes, this means that the Universal Declaration of Human Rights, and any further proclamations that this document has influenced, like the ATT, are not universal and exemplify the validity of imperialism having imposed its values onto others.

Relativists, like Vincent, defend a cultural conditioning that supposedly reflects a set of wants and goods that members of disparate cultural groups share, and that may include various human rights goods, but are not wants and goods arrived at through individual choices or preserved for individuals in the community as a matter of right (Shestack, 1998, p.230). In this sense, cultural relativism cannot be dismissed, because many non- Western rulers have used it to rationalize repressive practices by claiming that the culture of their society accepts those practices over universalist international human rights prescriptions, and that to criticize their society's human rights practices is to impose Western cultural imperialism over their local culture (Shestack, 1998, p.231). However, John Finnis and Alison Renteln have in fact found that all human societies show concern for the value of life, truth, property, etc (Finnis, 1980; Renteln, 1991). Alan Gewirth claims that some cultures may use the concept of right without having an actual word for it (Ball et al., 1989). Also, fundamental human rights principles have become universal by virtue of their entry into international law as *jus cogens*, customary law, or by convention (Shestack, 1998, p.233).

Much of the dispute just mentioned has to be understood in the sense that universalism is at the core of liberalism which is central to the human rights tradition (Langlois, 2009a). Liberalism is in fact based upon Kant's universalism, however it also based on John Stuart Mill's work which is actually in opposition. Kant is considered a deontologist whilst Mill is considered a consequentialist. Deontologists judge morality by looking at its adherence to rules and therefore the morality of the right itself. Mill's consequentialism views morality as the producer of the right kind of consequences, where ends justify the means. Mill's work is then utilitarian, influenced by Jeremy

¹⁹ Examples of this will become evident in the case studies of this thesis, where morality is used loosely or falsely by different actors.

Bentham. Bentham thought that natural rights were dangerous, for him natural rights were unreal rights that came from an unreal law, natural law, and liberal democracies better focus on positive rights (Langlois, 2009b). This thought became crucial because it completely destroyed the ideas that had influenced the creation of the French revolutionaries. Mill's perspective added on by claiming that the goal of ethics is to maximise happiness and in order to do so the greater the number of people that benefit the better. This idea is partly what liberalism is based on, where in the political and social context, the largest number of people are given the greatest freedom to believe what they like and to behave how they like, providing they do not harm others and are consistent with granting this freedom to all others (Langlois, 2009a, p.209). Utilitarianism in this form have deeply influenced how statesmen conceive and justify actions focused on consequences. This has had a large effect on how security and rights are conceived, practiced and justified.²⁰

While Mill's utilitarianism focus solely on the result of an action, for example as long as it produces wellbeing somewhere, then it is good; Kant focuses on justice more than wellbeing. Both agree that morality is motivated by a reason, although Kant's reason is humanity's duty whilst Mill's is gratification. Kant's principle of universability is actually a test of morality where an act is morally acceptable if its maxim is universalizable. Here enters moral law or the categorical imperative where the morality of an action is derived from the action itself not from the consequences it produces, like Mill. The influence of philosophers on how rights, and for that matter human rights and human security, are conceived today goes deeper than John Stuart Mill. As mentioned in this chapter's introduction, the space in this thesis is limited and the philosophers exposed here are the ones whose thought is considered the most influential to the human rights and security relationship and to the understanding of the case studies presented. However, the concept of *false morality* and the degree of falsehood that it carries that will be used in empirical chapters 5, 6 and 7, can be understood by differentiating Mill and Kant and consequentialism versus deontologist.

Kant's universality and Twentieth century philosophy

Universality is important beyond its focus on philosophy but also because this is where part of the subject that ties human rights and security together lies. This because, universality, or lack thereof, of human rights has allowed for human right and human rights based security norms to be justified and safeguarded. This universality is at the core of liberalism and therefore at the core of liberalist nations, like the ones involved in the creation and maintenance of human right security norms. These nations created these norms in the name of the protection of human rights, but

²⁰ The case studies in this thesis, will exemplify specially in relation to the concept of controlling the means of violence that forms an important part of this study's research answer and that will be explored in subsequent chapters.

how these rights were conceived by them is important. Rights sustain universal order by contributing to security of property, or liberty and, most importantly for this thesis, of life. In order to do so, universal rights must become tangible. Through universality, whether culturally relative or not, emphasis is put on individuals, not on states. In universality lies the preponderance of human rights and security norms and therefore also the relationship between human rights and security. This is why, this next part is dedicated to one of the philosophers that based their work on universality: John Rawls.²¹

The American political philosopher, John Rawls, like Kant, sought to oppose utilitarianism whilst maintaining and improving the idea of moral law and universality. Rawls's theory of justice through the original position, was designed by seeking to respond to Kant's critics who claimed that autonomy within the moral law was not well defined (Rawls, 1971). In the original position, the agents that define our laws are free, mutually disinterested and rational. Also, they do not tailor principles to favour selfish interest or allow social standings to advantage or disadvantage anyone. Agents do not know anything about themselves, only facts of life, they lie in what Rawls calls the veil of ignorance (Ibid.). The original position is designed to create policies and norms for society and because the procedure that it follows is fair, then the outcomes will always be fair. If the law is fair for all, then it can be assured that it is universal because it can be applied to liberal and non-liberal societies. Rawls describes how the idea of the original position with its veil of ignorance, may be used to model the agreement of representatives of both liberal and non-liberal societies on a law of peoples that respects basic human rights and is universal in its reach without being peculiarly Western or objectionably ethnocentric (Rawls, 1985; Shute and Hurley, 1993, p.7). His theory of justice offers an intriguing combination of universalism about one part of morality, on which his political theory rests, and agnosticism about the other (Rawls, 1971; Shute and Hurley, 1993, p.6).

By combining Kant's universality and moral law plus Rawls's original position, principles of human rights emerge that manage to encompass both security and rights in a universal and fair manner. The law of peoples that emerges from Rawls's constructivist conception, limits the traditional powers of sovereignty not just with respect to waging war but also with respect to the treatment of people within a state's boundaries (Shute and Hurley, 1993). The law of the peoples is the political conception of right and justice that applies to the principles and norms of international law and practice (Rawls, 1993, p.68). In this law, the least is to uphold basic rights that Rawls refers to as human rights. These are: the right to life and security, to personal property, and the elements of the rule of law, as well as the right to a certain liberty of conscience and freedom of association, and the right to

²¹ Rawls is not the only philosopher based on Kant's universality, others like Hannah Arendt did as well. However, Rawls has a direct relationship to the human rights and security relationship and to the actors that defend it, as will be seen in the empirical chapters.

emigration (Rawls, 1993). The right to security being the most important and relevant for the human rights and security relationship and therefore for this study.

Rawls work is seen by many as a watershed moment in the recent history of political science. In fact, for some there is a before and after his theory of justice (Agra, 2004; Barry, 1991). Bhikhu Parekh (1999) argues that Rawls's importance is actually local because only in the US it is seen as so important, in Europe it is not. His theory is consisting largely of giving the beleaguered American liberalism a new philosophical basis and respectability (Alan Ryan in B. Parekh, 1999, p. 399).²² B. Parekh argues that the political theory that has sprung from Rawls is unwisely confined to the nation-state at a time when the latter is being institutionally eroded from within and without and morally challenged by new actors (Parekh, 1999, p.399). This is particularly important when theorizing about human rights and security, because, as the case studies in this thesis will show, new actors are taking centre stage when politicising human rights. Not only are, NGOs leading and pushing for new norms and controls but the individualisation of security has started to put the nation-state's priorities to shake. However, Rawls's theory enhances the universality of norms based on security and rights as well as the important role of those agents that create, define, implement and improve these norms. The autonomy of these agents, in Rawls's theory, would be key to the construction of fair and universal norms. As the case studies presented in chapters 5, 6 and 7 will show, full autonomy of the creating agents is difficult to fully prove. However, there are *norm implementers* that will become the agents of the original position seeking to limit the traditional powers of sovereignty through fairness. If Rawls's original position is used further, with the agents in charge of implementing the norm, the agents should be completely autonomous. However, as this thesis will analyse some agents tend to be involved financially with nation-states, which to a certain extent takes away their autonomy leaving them outside full universality and fairness of the norm.

Recent evolution of human rights and security

The First Geneva Convention and the many norms that followed brought a large advancement to the field of human rights, humanitarian rights, security and of course the human rights and security relationship. The journey that this chapter is travelling has large part of its dedication on the last decades. Human rights and security have entered society in diverse ways in the last few years, which has also led to increasing progress in the field of International Relations. Particular to this thesis and to this chapter is the constructivist view of both concepts separately and together. The constructivist point of view is what defines a main characteristic of the human rights and security relation later described on the final part of this chapter.

²² Rawls is not without its critics, for example: Allan Bloom notices that Rawls has failed to appreciate the crucial distinction between opinion and knowledge or appearance of reality; and William Bluhm contends that he never defended his fundamental principal (Bloom, 1975; Bluhm, 1987 in B. Parekh, 1999).

Human rights and security entering society through the evolution of humanitarian norms

Human rights enter society through informal and formal norms. The basis for human rights norms were developed in the age of enlightenment and defined in direct relation to the state, where their safeguard became one of the state's major functions (Lavenex, 2001). Formal or tacit human rights norms have created a relationship of obligation between the individual, other right holders and most importantly the state, as the obliged party. These norms have been founded as independent from political and historical aspects (Habermas, 1996) and their moral justification of human rights is thought to precede considerations of strict national sovereignty (Fagan, 2005, p.2). The underlying aspiration of the doctrine of human rights is to provide a set of legitimate criteria to which all nation-states should adhere; appealing national sovereignty without providing a legitimate mean for nation-states to permanently opt-out of their fundamental human rights-based commitments (Fagan, 2005, p.2). Therefore, and for many of its supporters, the doctrine of human rights aims to provide a fundamentally legitimate moral basis for regulating contemporary international relations and their geo-political order (Fagan, 2005). Whether this moral basis is fully followed or respected by actors remains up for discussion, particularly as will be seen in cases like the ones presented further in this thesis, where state actors utilize this morality falsely in order to achieve their mission. Human rights morality, then, although bound to the state, can be manipulated to lose its true meaning. The reasons behind such manipulation, tend to be varied but focused on each actor's material key interests, namely security.

Security has different ways of entering society, but one of them is through norms. In fact, the way in which security relates to norms is tied up to human rights in war norms. These norms are humanitarian norms and were demarcated by the birth of the First Geneva Convention (FGC) in 1864. Humanitarian law is rooted in the law of war that has always had rules based on chivalry, humanity and religious values that were designed to protect non-combatants- especially women, children and elderly men (Meron, 2000). Particularly through the Middle Ages, the Church was so powerful that it would forbid certain weapons in the name of God. The way in which war was carried out in the 19th century changed due to main developments in the industrialization of warfare, the growing importance of alliances, the codification of the laws of war and the Napoleonic legacy of conscript mass armies (Kaldor, 2013b). The modern war that developed in the nineteenth century and its ever increasing emphasis on scale and mobility led to an increasing need for rational organization and scientific doctrine to manage these large conglomerations of force and its consequences (Kaldor, 2013b, p.24). European Conferences proliferated at the time and contributed greatly to the development of rules governing the waging of war and the codification of the laws (Shaw, 2008, p.28). This coupled with the influence of philosophy gave fourth to the creation of the First Geneva Convention and through it

to the birth of international law and most importantly humanitarian law. Humanitarian law can be said to be a branch of human rights law²³ that is “a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain behaviour or benefits from governments; human rights are inherent entitlements which belong to every person as a consequence of being human (ICRC, 2013). The FGC was the international treaty that established humanitarian law and since then has been one of the key elements in a line of prosperous stories of non-state actors having centre stage in international decisions that have an effect over civilians, state interactions, state laws and state supremacy.

In norm cycle terms (Finnemore and Sikkink, 1998), delved upon in the introduction of this chapter, the birth of the FGC was the starting point of the norm, ending with the full norm internalization of the norm in the second half of the 20th century (Boli and Thomas, 1999a; Finnemore, 1996). Since its creation, 779 instruments have been adopted with a clear increase after 1945 (Elliott, 2011).²⁴ Approximately 85 percent of instruments were drafted from 1940 to 2003 (Ibid.), showing the preponderance of the 1948 Universal Declaration on Human Rights and the United Nations (UN). The UN, through the Declaration, introduced the concept of human rights into international law without altering the concept of sovereignty (Freeman, 2011). By means of an international political process the provisions for the Universal Declaration were the subject of intense debate and the final text was produced by a long series of votes (Morsink, 1999). Since its creation, the UN has sometimes had an ambiguous position. On the one hand, as the author and guardian of human rights standards and on the other, it has governments within its members that are often serious human rights violators (Freeman, 2011). Having a comprehensive human rights policy, like the one the Declaration has allowed for, has meant insisting on the legitimate appraisal of the internal conduct of all states (Vincent, 1986, p.152). For states to be in conformity with the new standards, they have had to protect human rights in their territory but also externally (Reus-Smit, 2001). This has implied further international involvement and the creation of further instruments, like the R2P explained above. Today, the legacy of the FGC has bifurcated into several branches, like the human rights and security norms like the focus of this thesis: ATT.

²³ Although rules of IHL deal with many issues that are outside the purview of IHRL, such as the conduct of hostilities, combatant and prisoner of war status and the protection of the red cross and red crescent emblems. Similarly, IHRL deals with aspects of life in peacetime that are not regulated by IHL, such as freedom of the press, the right to assembly, to vote and to strike (ICRC, 2013).

²⁴ This proven by the study of sociologist Michael Elliot (2011). Elliot means by instruments: conventions, charters, protocols or declarations. He gathered the instruments from: Brownlie & Goodwin-Gill 2001, Ghandi 2000, Lawson 1999 & 1996, Office of the United Nations High Commissioner for Human Rights 1997, 2002, Symonides & Volodin 1999, Universtiy of Minnesota Human Rights Library (online) and Weston & Carlson 1994- 2003.

IR views on human rights

As has been indicated throughout the first section of this chapter, both human rights and security in IR theory are characterized by the tension between the theoretical stands. As a consequence, the notion of human rights is contested. This contestation is reflected in the evolution of IR theory and in the understanding of universalism and particularism that has featured since the end of the 20th century. Views in IR, are fundamentally opposite, particularly between the two classical theories, realism and liberalism. Based on the, previously discussed, Hobbesian objection of the existence of universal morality, the realist concept of human rights, is specific to the state and therefore not universal (Krasner, 1993). Consequently, human rights do not influence state behaviour and are only accepted once the state decides to promote them to pursue selfish interests (Carr, 1947; Dunne and Hanson, 2009; Dunne and Wheeler, 1999; Herbert, 2002; Ikenberry and Kupchan, 1990; Morgenthau, 1948). For realist, human rights can be a useful tool if they enhance the relative power of a state; using force to uphold their values is almost always reckless and self-interested (Dunne and Hanson, 2009, p.63). Under an anarchic international system, states act competitively in order to maximize their power in terms of “population, territory, resource endowment, economic capability, military strength, political stability and competence”(Waltz, 1979, p.131). Thus, human rights norms are pursued only as the imposition of the state’s moral principles upon another (Morgenthau, 1973). The main concern are questions of war and peace making all other goals subordinated to the interests that allow a state to survive.

On the other hand, the liberalist/idealist thought, is clear on the moral equality between the state and the individual. Citizens have the capability of having natural rights independent of the state allowing for a basis for self-determination grounded within the authority of human reason (Locke, Kant in (Fagan, 2005, pp.3–4)). The state’s role is of guaranteeing the rights of its citizens as well as the promotion of universal values. States become “necessary staging-posts in a wider process of creating a functioning peaceful world society”(Williams and Booth, 1996, p.77). Anarchy is not the case and states are not constantly preoccupied with survival, instead cooperation and interdependence reigns. International laws and institutions promote rights among states and among individuals (Hurrell, 1990). Through institutions, liberals encourage the spread of liberal democracies that permits human rights to spread. Liberals give great importance to the domestic sources of state preferences that determine the outcomes in international politics (Moravcsik, 1997). For example, in Andrew Moravcsik’s work, states accept binding treaties of human rights as political survival to protect unstable democracies that existed at the end of World War II (Moravcsik, 2000). The promotion of human rights is inextricably linked to the promotion of democracy and good governance therefore, unless embedded in state-based institutions they will not be durable (Dunne and Hanson, 2009, p.63).

Unlike realism and liberalism, constructivism sees no tension between moral universalism and the interests of the sovereign state (Dunne and Hanson, 2009). The realist claim about the primacy of the national interest is problematized by constructivist where interests are a product of the identity and values of a state or region (Dunne and Hanson, 2009, p.63). Constructivists do not take states interests as a given, rather they look at other actors and their discourses and how they shape national interests and multilateral negotiations (Garcia, 2006, p.15) because social interactions and needs determine interests. This so called constructivist turn has broadened the study of international relations beyond state centric approaches to international relations; for example, extending neorealist and neoliberal thought both of which still consider anarchy or self-help as central organizing principles and therefore neglect transnational networks of knowledge and action, and the role of non-state actors in shaping states interests (Checkel, 1997; Garcia, 2006, p.15).

Constructivists argue that human rights should not be regarded in opposition to state sovereignty but rather as an emergent standard for legitimate statehood (Dunne and Hanson, 2009; Reus-Smit, 2001). They argue in the capacity that the construction of identities, interests and norms have to create values. They see human rights as universal values and therefore as an integral part of the moral purpose of a state (Reus-Smit, 2001, p.520). Also, as opposed to realism, the state is not the unit level of focus for international politics.²⁵ For constructivist it matters more how states define their interests and not how they pursue them (Finnemore, 1996). In fact, John Ruggie, argued that it is important to know the international power structure to understand the form of order, but not the content (Ruggie, 1983). To know the content and consequences of a particular regime or the structure of social purpose, we need additional information about norms (Schmitz and Sikkink, 2012). In this sense, human rights present a particularly promising case for exploring and extending a theory of norms in international relations (Sikkink, 1998).

For constructivists, norms are shared assessments and can change with the circumstances but can also change social environments (Finnemore and Sikkink 1998 and constructivist in general). The global acceptance of human rights norms since 1948 originates in what academics have called a norm cascade which is a model of norm socialization (Finnemore and Sikkink, 1998; Sunstein, 1997). According to them, once the norm starts other members of the community start adopting it, leading to a

²⁵ This particular claim is actually in opposition of neorealism specifically. The distinction between realism (or classical realism) and neorealism was not specifically made. The realist description in this subpart of the chapter refers to realism as a whole. However, the specific differences between both branches are: neorealism introduces the anarchical structure of the international system versus the classical realist thought of rooting war in the imperfect human nature; realism (or classical realism as it is referred to) is only concerned with matters of high politics like war and peace, whilst neorealism approaches all levels of interaction; and classical realists differentiate between status-quo powers and revisionist powers while neorealism regards states as unitary actors (Schweller, 1996). For more differences, even between main authors of both branches see: (Pashakhanlou, 2009).

cascade effect. Constructivist scholars have divided into two when answering if the norm cascade is an inconsequential commitment on the part of the state to weakly institutionalize human rights norms, or if it actually means a profound transformation of the international and domestic politics (Schmitz and Sikkink, 2012). State centric scholars, like Wendt, have answered with the language of sociological institutionalism to account for the growing international salience of human rights norms (Wendt, 1999; Schmitz and Sikkink, 2012). Non-state centric scholars refer more to a fundamental normative socialization (Schmitz and Sikkink, 2012; Risse et al., 1999). Sociological scholars believe in decoupling between norm rhetoric and norm behavior (Boli and Thomas, 1999a; Meyer et al., 1997), while other scholars claim that the work of non-state actors begins exactly there (Finnemore, 1993; Ikenberry and Kupchan, 1990; Risse and Sikkink, 1999; Schimmelfennig, 1994; Schmitz and Sikkink, 2012). In these cases, socialization can be defined as the induction of new members into ways of behavior that are preferred in a society (Barnes et al., 1980, p.35). Along these lines, norms can teach states (Finnemore, 1996); where clearly, the states interest are not undermined but lead by norms. Therefore, this means that norms should superimpose the state's interest.

Defining the constructivist human rights and security relationship

The construction of the human rights and security relationship stems from the deconstruction of both concepts, as has been appreciated throughout this chapter. This deconstruction develops from the understanding of common elements branching from notions of safety and threat, to the philosophical and theoretical composition of security and human rights. This chapter has set the premises for the connection between human rights and security and in particular for the juxtaposition of their common elements that define the relationship between them. Also, this chapter has given an overall sense of where the relationship stands, however its more tangible definition has not been provided yet. Like this, the human rights and security relationship can be seen as falling somewhere in between a Hobbesian security perspective and a Kantian universality. Although Hobbes and Kant are the basis of the tension that exists between human rights and security, the relationship is particularly constructivist in its formation, definition, scope and perception. This is due to, as was mentioned briefly in chapter 1, the relationship being composed by the nexus of moral and material interests that are in fact constructed by external and internal facts and environmental circumstances that each actor has.

The human rights and security relationship can be seen either from an international level or from a narrower, more defined one. Narrowly, it refers to the relationship that the two factors have within a given actor. This can be domestically within a state or belonging to a domestic or international non-state actor, i.e. the human rights and security relationship of state "x" or NGO "x". Internationally, the relationship is a conjunction of the relationships actors globally bring, but it is also a direct reflection of international law, specifically international humanitarian law (IHL) and

international human rights law (HRL). Because of this it can be said that the contemporary human rights and security relationship began with the establishment of humanitarian law, that is, with the creation of the First Geneva Convention in 1864. As was mentioned further above, humanitarian law was part of society long before it was established as so. It is inherent to the law of war, that defined armed conflict for centuries. The law of war was also meant to safeguard the state's security. It was the birth of a new state and of modern war, allowed for the nineteenth century to become the cradle for international humanitarian laws, like the Declaration of Paris 1856, Lieber Code 1863, and the First Geneva Convention of 1864. Like this, the contemporary human rights and security relationship that rules internationally and influences locally was born and with it the constant construct of social realities that its interaction brings. Construct within the international relationship itself, but also by the composition of ever-changing local human rights and security relationships that reside within each actor. This international human rights and security relationship gives guidance to state and non-state actors by acting as a structure but also as an agent.

The human rights and security relationship is also an example of the structure-agency dilemma, solved by the rules to demonstrate the co-constitution of both. The human rights and security relationship inhabits in world that is ruled by no one in particular, and therefore by everyone in association (Onuf, 2013, p.23). This ruling must not be considered in a vacuum, but in the agent's choices and in the social arrangements that eventuate from agent's choices (Onuf, 1997). Some actors are typically characterized for advancing in the name of security, like the state; others in the name of human rights, like non-governmental organisations. However, the reality is that actor's interests are actually a combination of human rights based and security based, moral and material interests that define the relationship between human rights and security. As mentioned in chapter 1, then the human rights and security relationship turns out to be a platform where actors, directly or indirectly, consciously or subconsciously are influenced by cultural, social and historical facts to manipulate or accommodate the situations whilst constructing a defined connection between security and human rights.

Both concepts of security and human rights complement and contradict each other in a constructed fashion were they are constantly being changed by the actors involved whilst changing them in return. This results in an ever-changing relationship, that is never a finished product (Onuf, 1998). This construction, as mentioned in chapter 1, takes place in the realm of international norms were the interaction between agents involves the socialization of diverse state and non-state actors. Moreover, the construction exemplifies the constructivist nature of the relationship based on its contingent core and the co-constitution of society (Kessler, 2016; Onuf, 2012; Onuf, 2009). To better understand this, constructivists view on norms and the study of agents in global governance is needed. This will be the main topic of the next chapter,

so the human rights and security relationship can come into a clearer light in preparation for its use in the case studies.

Conclusion

As stated in chapter 1, a genealogical constitutive analysis of the human rights and security relationship is one of the main features that gives this thesis its unique contribution to the field of International Relations. Throughout this chapter, this is becoming more and more apparent through the deconstruction of the concept of security and the concept of human rights, as well as through the construction of the definition of the human rights and security relationship. This chapter slowly traced the roots and identities of security and rights while distinguishing historical contingencies and multiple narratives that are of political, ontological, epistemological and ethical nature.²⁶ The genealogical constitutive analysis is demonstrating the genesis and identity of the human rights and security relationship that will become useful throughout the case studies further along. The genealogical aspect of the thesis is used to introduce the problematic between the elements of the human rights and security relationship, elements that will be found throughout the case study chapters. This refers to exposing the reasoning behind topics like false morality and its relation to Mill and Kant's work, or norms as a response of contingency in constructivism and its relation to the recent evolution of humanitarian norms.

This chapter has sought to see both human rights and security as separate entities, but at the same time as the same or at least stemming from the same. The journey has been non-linear and has brought the capability of seeing how the connection between both concepts has developed. In a few words the journey passes through the connection of safety-threat, the deconstruction of security in IR connected to sovereignty, human security and R2P, universality and cultural relativism of rights, Rawls perspective related to Kant's universality, human rights entering society through humanitarian norms, deconstruction of human rights in IR, all to arrive to the definition of the human rights and security relationship.

Concepts, like R2P, are especially important to consider, not only because its normative advancement in human rights protecting norms, but also because the change in the conception of humanitarian intervention has allowed for greater importance of non-state actors. This is particularly important for this thesis and for this chapter's connection with chapter 3 and the empowerment and study of the global civil society based on the cosmopolitan understanding of security, rights and the international interaction of states. This chapter allowed for it to become apparent that the connection between security and rights is entrenched even in the dawn of their understandings. Universality's dispute understood as Mill's consequentialism

²⁶ To further understand this see more on (Clifford, 2018; Vucetic, 2011) on chapter 1 of this thesis.

versus Kant the deontologist can be related to the way in which actors, states in particular, use morality in an end justifies means type of way. This will be further understood with the concept of *false morality* in chapters 5, 6 and 7. Furthermore, universality of human rights, or the lack thereof, has allowed for human rights and human rights based security norms to be justified and safeguarded. Through universality, whether it is culturally relative or not, emphasis is put on individuals, not states. Also, by combining Kant's universality and moral law plus Rawls's original position, principles of human rights emerge that manage to encompass both security and rights in a universal and fair manner. It is important to mention that Rawls's theory enhances the universality of norms based on security and rights. Also, that the agents of the original position are similar to the *norm implementers* that will be central to chapters 5, 6 and 7.

This chapter ends by defining the human rights and security relationship and how it is constructivist in its core: in its formation, definition, scope and perception. The deconstruction of both concepts, security and human rights, has given common elements that compose both ideas as well as the human rights and security relationship. The relationship can be seen as falling somewhere inbetween a Hobbesian security perspective and a Kantian universality, whilst at the same time composed by the nexus of moral and material interests that were mentioned in chapter 1. This composition and the elements that conform it are also constructed by internal and environmental causes that each actor has. This particularity of the relationship will be further understood as the case studies in this thesis develop. The human rights and security relationship is part of a constructivist world, that is ruled by no one and therefore by everyone (Onuf, 2013, p.23). Like this, it turns out to be a platform where actors, directly or indirectly, subconsciously or consciously are influenced by social, cultural and historical factors to manipulate and accommodate issues whilst constructing a defined connection between security and human rights. Both security and human rights complement each other as well as contradict each other, whilst constantly changing and being changed by the actors involved. The construction of the human rights and security relationship takes place in the jurisdiction of international norms where state and non-state actors involve themselves in socialization with each other. In order to understand this interaction better, focus on norms and agents working in global governance will be explained in the following chapter.

Chapter 3 - Engaging discourses of human rights and security in the norm dynamics of global governance

Introduction

As established in chapter 2, the human rights and security relationship enters society through norms. Although norms have been studied in international law for some time, they were introduced into international studies until the early 70s and early 80s when scholars who focused on transnational actors (Keohane and Nye, 1977), early constructivist (Adler, 1997; Dessler, 1989; Kratochwil, 1989; Kratochwil and Ruggie, 1986; Wendt, 1987) and regime theorist (Krasner, 1983) began to fit norms into their works. According to Katzenstein, norms are prescriptions or proscriptions for behaviour (Katzenstein (ed), 1996). They are “a standard behaviour for actors with a given identity” (Finnemore, 1996, p.20; Katzenstein, 1996b; Klotz, 1995). At times the word norm is confused and used interchangeably with institutions but in the constructivist understanding institutions are a set of norms. The definition of norm isolates single standards of behaviour, whereas institutions emphasize the way in which behavioural rules are structured together and interrelate (Finnemore and Sikkink, 1998, p.891).

Finnemore and Sikkink’s seminal work, summarizes how norms have been seen in different categories according to the main proponents of norms in constructivism. Norms are divided into: regulative norms, constitutive norms and evaluative or prescriptive norms (Gelpi, 1997; Katzenstein, 1996b; Ruggie, 1998b; Searle, 1995; Wendt, 1999). The last and most important category for the understanding of international relations and for constructivist is the one that gives norms its particularity and uniqueness and sets them apart from any kind of rule with the prescriptive (or evaluative) quality of “oughtness” (Finnemore and Sikkink, 1998). Oughtness brings out the moral obligatoriness of norms, particularly when referring to the actors to whom the norm is intended to proscribe. Actors such as: states, international organizations, NGOs and even individuals depending on the nature of the norm. Due to the moral obligatory quality that oughtness gives to norms, “we typically do not consider a rule of conduct to be a social norm unless a shared moral assessment is attached to its observance or non-observance” (Fearon, 1997a, p. 25 in Finnemore & Sikkink, 1998).

In constructivism, norms shape national security interests or directly security policies of states and shape state identity (Jepperson et al., 1996). Norms establish expectations about who the actors will be in a particular environment and about how these particular actors will behave (Jepperson et al., 1996, p.54). This coinciding with Finnemore and Sikkink when explaining the indirect evidence of norms. The strength of the causal effects of norms varies because norms fall on a continuum of strength,

from mere discursive receptivity, through contested models, to reconstructed wisdom (Berger, 1998; Jepperson et al., 1996; Kier, 1996; Price et al., 1996). It is a mistake to characterize constructivism as focused on norms as opposed to neorealism and neoliberalism, which are allegedly focused on power and interests (Hurd, 2008, p.310). Constructivists are also concerned with power and interests, they just see the sources of those interests as constructed and as born from the interaction between agents and structures. Studying norms does not mean that strategic behaviour should not be taken into consideration. Then, norms are not mutually exclusive to the study of strategic behaviour, constructed behaviour that is. It does not mean that material power is unimportant or that actors do not make instrumental calculations, nor does it mean that sovereign states or anarchy don't exist; it just means that all of these are socially constructed (Hurd, 2008, p.313).²⁷

In this normative sense and in order to continue the journey of the human rights and security relationship the realm in which it takes place needs to be understood. This exemplifies the genealogical stance of this thesis, by dividing the parts of the human rights and security relationship into such a realm. It follows the causal analysis with attention to the processes and interactions that lead towards the formation of the relationship. The realm is that of international norms, particularly human rights and humanitarian norms, but not exclusively. In this thesis, the focus is more on norms under the humanitarian and human rights umbrella, specifically those also related to arms control where human rights and security collide. This chapter will deconstruct these norms in order to construct the realm in which the human rights and security relationship mainly takes place. This will include the interactions the actors involved in their conception, negotiation, creation and implementation go through to achieve a successful union between human rights and security. Part of the interactions that actors, particularly states, carry on are based on disarmament diplomacy which will also be explained in this chapter. Throughout this chapter the rise in the importance of non-state actors and the activities there are involved in will become apparent. This will serve as a basis for the important role that different non-state actors have had in the implementation of the ATT in the upcoming cases.

Continuing with the deconstruction of the realm of the human rights and security relationship in this chapter will lead to focusing on the study of its key agents like: transnational advocacy networks and global civil society which can be used interchangeably in some cases. It will also focus on comprehending contemporary sources of arms control, controlling the means of violence, humanitarian arms control and small arms and light weapons. All these will be understood as stemming from the

²⁷ These clarifications on the constructivist understanding of norms become crucial for the purpose of this thesis. It can be wrongly thought that human rights and their construction have nothing to do with states security interests. However, because security tends to be one of the state's priorities, its influence on the creation of interests, the championing of norm creation, the adoption of norms, and the overall interaction that norms on rights create is constantly intertwined and bouncing back influences between them. This fact will be further exemplified in the case studies of this thesis.

source of human security and the norm internalization that came from the Geneva Conventions, and perhaps before. The construction of the human rights and security relationship takes place in the jurisdiction of international norms where state and non-state actors interact generating dynamics that in IR have been called norm dynamics. These norm dynamics central to this chapter will be those focused on arms control and disarmament diplomacy and the diverse branches this entails.

This chapter will allow for the understanding as to why NGOs and other non-state actors have achieved centre stage in the international system. This is also the reason why the focus of this chapter and of this thesis is upon considering non-state actors over state actors, particularly in these initial chapters. This chapter, as this thesis, is a reflection of the growing importance non-state actors have had in the field of IR, but also in the international system. It is also a reflection of security stemming from state actors, but more and more centred on the individual. Another reason is that this thesis seeks to reflect the underlying recognition or lack thereof of the human rights and security relationship in the realms of arms control, and to do so attention on non-state actors is needed. As it will be seen in the case studies, the importance of these non-state actors is that the correct implementation of the norm and therefore in the advancement of the balancing out of the human rights and security relationship lies mainly on them. However, state actors also play a crucial role in the interspace of the human rights and security relationship, as will be seen with the case studies further along. In fact, NGOs activity is almost always interrelated with state activity. The construction and maintenance of the interspace and of the human rights and security relationship comes from multiple actors, state and non-state. Non-state actors have gotten centre stage more and more in the last decades but state actors also promote the human rights and security relationship, whether on the security, human rights or both sides. As will be explained further below, due to the complexity of state's role in the human rights and security relationship, it is at times needed to dialogue beyond constructivism and into English School and sociological institutionalism theories. This is also another reason why this chapter tends to focus mostly on non-state actors, because to properly grasp state action exemplification is needed. Actor's actions, particularly the state's one, will be best perceived as the case studies come to light. Therefore, these actors are the focus of the deconstruction and construction of the real and socialization of the human rights and security relationship presented in this thesis and in this chapter.

The interspace of the human rights and security relationship within arms control

The human rights and security relationship can today be seen in the newly created norm regimes that focus on humanitarian security and therefore entail both human rights and security. These norms have become an important part in the journey of the human rights and security relationship but also in the arena of international law. In order to better understand these norms, a deconstruction of its

elements and the arms controls topics that surround it will be explained in this part of the chapter. The deconstruction will start with humanitarian security regimes, as they are the direct basis of the ATT. Humanitarian security regimes will then further decompose into IR literature focused on contemporary arms control, controlling the means of violence, humanitarian arms control and small arms and light weapons. Other forms of norms connecting human rights and security will also be dealt with, with less of a focus on arms control. All topics are interconnected and in most cases share the same background, actors and ramifications. They are all consequence of the norm cascade corresponding to the Geneva Conventions that, as seen in the previous chapter, can be traced back to the end of the 19th century and the creation of the First Geneva Convention. Also, they are part of the advancement in the studies of human security and the changes in International Relation theory to further focus on the construction of norms. Finally, by the end of this part of the chapter it will become obvious that the topics presented are a direct representation of the union of human rights and security, of the human rights and security relationship and testimony and reason as to why studies and most security related issues have the need to be viewed with a human rights and security lens.

Denise Garcia's humanitarian security regimes

The most recent, and for purposes of this thesis, most important factor in the deconstruction of international norms are the recently created humanitarian security norms, of which the ATT is a part of. The term, humanitarian security norms, was coined by scholar Denise Garcia specially in relation to arms control. Although the term was not formally mentioned until 2015 in Garcia's article titled, precisely, *Humanitarian Security Regimes*; the literature on these regimes and on international humanitarian and human rights law had been evolving over the past three decades to arrive to this point. In fact, the literature on regimes evolved so that, according to Garcia, it now occupies centre stage in the study of international relations (Garcia, 2011, p. 56). Humanitarian security regimes also embrace the protection of human rights and Garcia defines this regime as: "driven by altruistic imperatives aiming to prohibit and restrict behaviour, impede lethal technology, or ban categories of weapons through disarmament treaties, and centrally embracing humanitarian perspectives that seek to prevent civilian casualties, precluding harmful behaviour, and protecting and guaranteeing the rights of victims and survivors of armed violence; thus, the main goals of humanitarian security regimes are to reduce human suffering, to prohibit harm and to protect victims" (Garcia, 2015, p.55).

According to Garcia, humanitarian security regimes are not just about state security, about those states that possess weapons or the technology to make them; they are about everyone's security (Ibid., p.57). This reflects the permeation of the concept of human security and the universalization of rights discussed in the previous chapter. They reflect human rights change and the successful pathways of norm dynamics explained by constructivist. The aim of these regimes is to establish humane

frameworks that negotiators and activists- government or otherwise- can use to create new international norms prescribing but often proscribing behavior (Ibid.). These frameworks may lead to changes in international-national security, because they emphasize humanizing international security through the setting of principled, multilaterally agreed proscriptions (Ibid.). The already existing examples of these types of regimes are: the Anti-Personnel Mine Ban Treaty- also known as Ottawa Treaty- of 1997, the Convention on Cluster Munitions of 2008, and this thesis's case study: the Arms Trade Treaty of 2014. The landmine and cluster munitions bans of 1997 and 2008 are the first instruments in international law to mandate the high contracting parties to assist present and future victims, as well as banning weapons (Ibid., p.65). The ATT is the first treaty to state as its main purpose the aim of reducing human suffering. In this sense, humanitarian security regimes create mechanisms to protect civilians after a conflict is over and/ or they also prevent unlawful use of weapons (Ibid.).

These new norms are examples of the rise in the importance of human or individual security in the eyes of the state. To some extent this is not fully implemented, however today discussions are not only limited to states' rights and national sovereignty, they also include talk of protecting civilians, addressing the plight of war-affected children and the threat of terrorism and drugs, managing open borders, and combating infectious diseases are now part of a dialogue (Axworthy, 2001, p.19). This shift may appear recent, however, it has been gathering momentum since the end of World War II and the urgent rethinking of states priorities that the Holocaust set upon us. The rise of human rights and its challenge to the Westphalian conception of sovereignty led to the recognition of individuals' rights reflected in these type of regimes.

Disarmament diplomacy

In this broader conception of security, disarmament diplomacy has become one of the key mechanisms at the disposal of states to protect human security (Garcia, 2011, p.183). It has also become crucial for non-state actors involved in enhancing the humanitarian side of security. Disarmament diplomacy is thought to be the realm of stalemate, defiance and non-compliance (Garcia, 2011, p.1). It was also a domain that was previously thought to be exclusive to the state – how they procure and manage their conventional arms- that has been penetrated by multiple sources: like the civil society mostly represented by NGOs (Garcia, 2011, p.2). It is important to mention that most humanitarian security regimes centre on disarmament and the regulation of arms, they are different from traditional arms control regimes; arms control regimes typically take a purely regulatory approach and have often been guided by the rationale of military necessity and economic benefit (Garcia, 2015, pp.56–57). However, arms control has been crucial to the development of the ATT, for example.²⁸

²⁸ Arms control will be clarified further bellow.

The humanitarian principles in the Geneva Convention of 1949- and now part of customary law- of prohibiting the unnecessary suffering of combatants, outlawing indiscriminate weapons, and distinguishing between civilians and combatants have been key to disarmament diplomacy (Garcia, 2011, p.184). The evolution that has led to the creation of humanitarian security regimes or human rights based security regimes had been not only championed by governments, individual actors- like Nobel Price winner Oscar Arias, in the case of the ATT- and NGOs- like Amnesty International, in the case of the ATT as well- have played a crucial role in putting this issues in the international agenda. Promoting human security globally has required that governments work more closely with the nongovernmental sector (Axworthy, 2001, p.22). NGOs have played a variety of important roles: they bring technical expertise and experience to the policymaking process, often work with government to implement international agendas, inform citizens about challenges and choices on the international agenda, mobilize human and financial resources to help solve local and global problems, work to end human suffering, and hold governments accountable (Axworthy, 2001, p.23).

The evolution and convergence of international humanitarian law and human rights law has been crucial to the existence of humanitarian security or human rights based security regimes. Without either, these regimes would not exist. Disarmament diplomacy has evolved with them, from a purely military centered framework to a more humanitarian, IHL and HRL, based one. This new framework reframes that negotiations no longer lie only on the realms of disarmament and arms control, but in humanitarianism and privileging the victims (Garcia, 2011). The influence of international human rights law began after 1948; according to Oberleitner, all legal texts on war adopted since have had an eye on human rights (Oberleitner, 2015, pp.340–341). The role of NGOs, like Amnesty International and Oxfam, to mention a few, has been key in procuring the advancement and proper application of human rights law. This is clearly portrayed in the ATT's history, which will be discussed in the next chapter. On the other hand, the ICRC has been the one responsible for advancing the teachings of IHL. The ICRC has relentlessly reminded states of their solemn responsibilities as high contracting parties of the Geneva Conventions and their Protocols in terms of not transferring arms if there is a belief that they will be used for the violations of IHL (Garcia, 2011, p.193). The ICRC has participated as a campaigner during the ATT process but also has generated authoritative legal analysis and information for states and for the general public (Garcia, 2011, pp.193–194)

The convergence of human rights law and humanitarian law is not an invention of current human rights scholarship and advocacy; it has its roots in the interaction of images of war and the role assigned to law in such situations (Oberleitner, 2015, p.341), as has been seen throughout this thesis. Since the 1970s pronouncements of the International Court of Justice (ICJ) on the continued application of human rights, the union of both has happened in many ways like: the inclusion of human rights law in humanitarian documents, the litigation of human rights in armed conflict before international human rights commissions and courts, the monitoring of human rights

and humanitarian law by UN human rights bodies and the Security Council, the confluence of human rights and humanitarian law in international criminal law, the identification of the interplay of human rights and humanitarian law in the International Committee of the Red Cross (ICRC)'s study on customary humanitarian law, the use of human rights and humanitarian law in civil society advocacy, and the emergence of state practice which allows the application of human rights in armed conflict (Oberleitner, 2015, p.341).

Contemporary Arms Control

Efforts to control arms go back to ancient Greece. First at a local level, then at a regional level and since the end of the 19th Century, at an international level with the creation of the Hague Conventions. They have evolved to become more complex and more representative of global needs. This evolution represents the growing leverage that human rights and humanitarian aspects have gotten in the human rights and security relationship. Philosophical trends, as explained in previous chapters slowly brought a further understanding of the concept of security. This pushed for a more humanitarian aspect of it allowing for a conscious effort to refrain from damaging human lives through the control of arms.

Since the early 1990s increased attention to non- nuclear tools of violence has prevailed. The end of the Cold War also caused a large proliferation of arms, due to the end of proxy wars and the end of ongoing preparedness of the major powers. This marked a significant change in terms of arms trade patterns and the economic rationales for arms sales moved to the forefront (Hartung, 2008, pág. 351), it also signified a downturn in global arms sales (Stohl & Grillot, 2009). Many countries simply did not need to purchase any more weapons, as their arsenals were already saturated with purchases made during the Cold War (Grimmett, 1990). Moreover, countries began to cut their arms production, due in part to decreases in domestic demand (SIPRI, 2003). Actually, in some regions the United States was not the world's largest exporter, although its forays into several different regions gave it a solid base around the world (Stohl & Grillot, 2009).

The large amounts of weapons causing innocent individuals to undergo pain made it easier for some to understand that a control regime was needed. In 1991, in the wake of the Gulf War, the permanent members of the United Nations Security Council - United States, Britain, France, China and Russia- established guidelines for conventional arms transfers, including advance notification of arms sales, considerations of human rights consequences, and concerns for destabilizing arms build-ups (Grillot, Stapley, & Hanna, 2007). These were never implemented, however they were further discussed in the Report of the Disarmament Commission A/51/42 of 1997 (United Nations, 1997). Perhaps, the most substantial arms control

development of the 90s was the UN Register of Conventional Arms in December of 1991- precursor to the ATT.²⁹

Fragile statehood, poverty and under-development, war economies, conflict over resources, terrorism, transnational organized crime and the privatization of security have been the cause for the international community of states, together with the transnational campaigns of the non-governmental organizations, to begin to introduce new forms of arms control and disarmament in order to meet the new challenges of the 21st Century (Wisotski, 2010). In International Relations since the 1960s there was an emergence of key texts upon which arms control understanding was based on (Schelling and Halperin, 1988; Bull, 1961). Post-Cold War arms control study and practice have represented a radical break with the principles of classical arms control which focused primarily (if not exclusively) on nuclear deterrence between the superpowers (Cooper & Mutimer, 2011) and therefore on security based exclusively on the state. In fact, the focus of arms control, by the end of the Cold War, was not on deterrence per se but on proliferation (principally Weapons of Mass Destruction (WMD)) and in later years to a lesser extent the proliferation of small arms and light weapons (SALW) (Cooper & Mutimer, 2011).

Today, there are two main approaches to arms control. On one hand, the problem solving (positivist) approach, John Borrie suggests that the purpose of classification is to make an attempt in the field of arms control and disarmament to think outside the box for the purpose of addressing contemporary challenges (Borrie, 2009; Mathur, 2011). On the other hand, the critical perspective encourages a study of discursive formations in the fields of humanitarianism and arms control and disarmament as they intersect with each other, not to explain those shifts, but rather to display the structural differences they embody and to some extent to document the parallels between contemporary shifts in several discursive formations (Rouse, 2005; Mathur, 2011). This critical security studies approach struggles to deconstruct hegemonic framings of the arms limitation problem and develops alternative narratives that contain inherently transformatory meanings, a powerful political act in itself (Cooper, 2006). This thesis goes beyond these two perspectives and approaches a more holistic view of arms control that adds the nexus of material and moral interests as

²⁹ The United Nations has not been the only forum to discuss arms control, disarmament and arms trade. In fact, since 1949 the Coordinating Committee for Multilateral Export Controls (COCOM) later succeeded by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA) of 1996 has also played an important role. The Wassenaar Arrangement unlike its predecessor COCOM, was not created to target any region or group (COCOM was created to target the Soviet Union and Eastern bloc). It was established to promote transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations. (Wassenaar Arrangement Secretariat, 2004). The WA has developed impressive lists of munitions, dual-use goods, and technologies that require monitoring (Gärtner, 2008). It continues to date.

influencers. As will be seen below, the human rights and security relationship focuses not on arms control, but on controlling the means of violence.

Controlling the means of violence instead of arms control

Neil Cooper and David Mutimer argue that: “We have moved from an era where arms control was principally about ensuring societies remained at risk of extermination to one where it is principally about exterminating risk all together – at least for the major powers” (Cooper & Mutimer, 2011, p. 9). Of course in theory this has been the case. In fact, when referring to the creation of the ATT the most prominent defenders of the control of trade of conventional weapons wanted a broader, almost full, extermination. In the end, in the final draft of the Treaty, the full and broader control was not actually achieved. It is as if one of the new aspects of contemporary arms control is a kind of absolute security that perhaps is more visible in terms of non-proliferation of WMD and of other weapons used for the so called war on terror. Ironically, this search for absolute security appears to be giving rise to ever more arms control challenges as illustrated by the way in which prophylactic interventions to prevent the next 9/11 have given rise to threats of improvised explosive devices and the copycat use of unmanned aerial vehicles (Cooper & Mutimer, 2011).

Cooper and Mutimer suggest that there is the need of an alternative term to arms control, a better term: controlling the means of violence (CMV) (Cooper & Mutimer, 2011, págs. 10-11). This is because looking at it from a critical point of view, as opposed to a problem-solving one, weapons are changing, some of the technologies of war are not linear developments and because arms control should encompass limiting the means of violence in civil conflicts against individuals (Cooper & Mutimer, 2011). As was explained in Chapter 1, CMV includes more radical and inclusive forms of global-local action in order to avoid embedding with militarism. CMV focuses on bottom-up power of civil society actors as opposed to arms control from below with the logic of militarism from above (Turner et al., 2010). As will be seen throughout this thesis, CMV allows for the focus of the human rights and security relationship and its construction and deconstruction to be more focused on moral issues.

Within the CMV perspective, Keith Krause sets contemporary practices of controlling the means of violence in a historical perspective (Krause, 2011; Dalby, 2011). Krause suggests that “progressive development of measures to control weapons of mass destruction in the 1980s and 1990s essentially moved arms control beyond a sovereign conception of how (and why) to control arms, as part of the management of security relations between competing powers, towards a larger logic of governmentality that reached deep into the domestic affairs of states and involved forms of regulation and control that went far beyond inter-state agreements to regulate their military competition” (Krause, 2011, pág. 20). Although this move described by Krause relates more to arms control in the broader or more classic sense,

that is the sense of WMD it has a definite logic within the conventional weapons and SALW that the ATT is defending. He sets attention on Foucault's issue of governmentality which is the art of government. Sovereignty and governmentality are seen like "two distinct ways of exercising power that focus on either securing a given territory and system of rule over people (sovereignty) or on managing a population through the wide-ranging regulation of economy and society (governmentality)" (Krause, 2011, pág. 21). In this sense, Krause states that arms control has moved from a sovereign to a governmentality perspective. As this thesis advances, this will also be noticeable in the case of the implementation of ATT and the actors' actions towards it. The actors of the cases presented have in fact reached into the domestic affairs of states and involved forms of regulation and control that go beyond what was agreed upon ATT. This particularly in the cases of states, especially a large arms exporting state like the UK in Chapter 6. The encompassing view of arms control through the implementation of ATT will be made clearer as the cases are developed.

Krause also argues that "arms control practices can also be viewed more broadly through the lens of governmentality; where arms control are about who can possess, use, develop and transfer the technologies of violence, under what circumstances, against whom and for what ends" (Krause, 2011, pág. 29). In fact, Krause then mentions that initiatives like the Ottawa Treaty, the PoA and the 2008 Ban on cluster munitions can be considered as arms control governmentality. Even though this article was written a couple of years before the final draft of the ATT, it is most likely, given its characteristics and similarities with the just mentioned initiatives, that the Treaty would be considered by the author as arms control for governmentality as well. Krause's article places a number of key issues on the table, in particular, the relation of CMV to broader modes of government, and the centrality of issues of framing for understanding the nature of the means of violence and of their practices of control (Cooper & Mutimer, 2011). What Krause and Cooper and Mutimer's research does is better set the interspace in which the human rights and security relationship plays in. An interspace of a broader understanding of arms control that seeks to control the means of violence.

Humanitarian arms control

A key innovation of contemporary arms control has been a turn to what has been labeled humanitarian arms control (Cooper & Mutimer, 2011), which is part of the movement that created the ATT, the ban on cluster munitions and the control of landmines. Also deeply related, to Denise Garcia's humanitarian security regimes. One of the features of the post-Cold War arms control agenda has been the emergence of a set of control initiatives that are increasingly being categorized under the rubric of humanitarian arms control (HAC) (Greene, 2010; Hynek, 2007; Wisotzki, 2010; Cooper, 2011) or humanitarian disarmament (Borrie, 2009; Borrie and Randin, 2006; Krause, 2011; Cooper, 2011). As an example, the 1997 Convention to Ban on Anti-Personnel Mines (known as Ottawa Treaty), the 2001 Programme of Action on

Small Arms and Light Weapons (PoA), the 2008 Convention on Cluster Munitions and the diverse attempts to create the ATT. In this context, the concept of humanitarian arms control emerged trying to procure the new security challenges of the 21st Century.

The characteristic of humanitarian arms control is the comprehensive application of the principles of proportionality, need and compensation, according to Simone Wisotski of the Peace Research Institute in Frankfurt (Wisotski, 2010). According to her, humanitarian arms control is characterized by certain moral principles and principles of justice (Wisotski, 2010). This is demonstrated in norm-generation efforts in humanitarian arms control: the moral aspirations of the transnational campaigns of the non-governmental organizations in particular are thwarted by state's particularistic national security interests (Wisotski, 2010). One would expect democracies in particular to be especially committed to the development of norms in the field of humanitarian arms control because the underlying moral convictions and normative principles closely resonate with democratic values (Becker, Muller, & Wisotski, 2008). Quite to the contrary, an ambivalence between norm-building efforts and national interests can be identified, such as in the case of the United States, particularly under the Bush administration (Wisotski, 2010). This ambivalence will also become apparent as the cases of this thesis are developed, and will also reflect and be a reflection of the human rights and security relationship of each case.

Humanitarian arms control, particularly the current regimes built around it, like the ATT, has been argued of being ahistorical. This because, "there is in fact a long record of initiatives aimed at eliminating certain pariah weapons or restricting their use in particular context"(Cooper, 2011, p.141). It also depends on a rather partial understanding of the way the relationship between power, ethics and specific models of economy have been expressed throughout the history of arms trade regulation (Cooper, 2011). Cooper argues that this ahistoricism refers to the fact that attempts to control certain weapons is quite a normal practice in the history of arms control. Although this is true, it has to be mentioned that the specific characteristics of the current humanitarian arms control agenda are unique to today. Only today, has the world been globalized in such a way to allow the transfer and trade of arms to cause an extraordinary awareness of its negative consequences. Also, actors such as NGOs and international institutions had not previously existed, which makes the current humanitarian arms control agenda unique. Like this, HAC is an example of how, indirectly, the understanding of security related issues is being seen more and more in a human rights and security relationship perspective. HAC also set a further appreciation of the interspace that surrounds the human rights and security relationship, or at least the interspace it wishes to have to properly be fulfilled and balanced.

Small arms and light weapons

One of the most important loci of humanitarian arms control is the attempt to control small arms and light weapons (Cooper, 2011). Small arms proliferation and its regulation has also become part of the contemporary arms trade history due to the profound effect it has had on the spread of violence across the world. Small arms and light weapons (SALW) are now thought of as practically synonymous with the problem of the conventional arms trade: their proliferation is widely understood as a key indicator of the transformation in the nature of conflict brought about by the end of superpower confrontation and the rise of globalization (Stavrianakis, 2011).

Small arms spread and availability is essentially an international problem due to the international nature of both illicit arms trafficking and the illicit trade, and also because of the widespread character of the problem of armed violence in the world (Garcia, 2006, pág. 5). Obviously, SALW trade has also suffered an extraordinary increase in the last couple of decades. According to Michael Klare there are ten reasons for the increase in the small arms trade after the Cold War: the break-up of the former Soviet Union and the Yugoslav Federation, Ethnic warfare within the successor states of these regions, breakdown of central authority in Russia and the former Soviet Republics, diminished superpower authority over proxy forces in internal Third World conflicts, NATO and Warsaw Pact possessed large stockpiles of surplus weapons, the proliferation of ethnic, tribal and religious conflicts, growing social, political and economic disorder within societies, the growing importance of non-state actors, the growing vibrancy of the global underground economy, and the growing privatization of security and violence (Klare, 1995).

In this sense, small arms were understood in a perspective of a Post Cold War era. There was no questioning arms control; however, the paradigm was to be broadened to include small arms and light weapons given their importance. The years following the end of the Cold War also saw” the introduction of human security principles into the field of arms export controls” (Bromley, Cooper, & Holtom, 2012, pág. 1035). Then the new organizing principle of arms control agreements had to be the attainment of human security: freeing people from the threat of violence (Garcia, 2006). The initial impetus for raising awareness regarding small arms can be traced back to two actors: scholars and practitioners (Garcia, 2006). The increase in attention on SALW is also an example of the increase of a more humanitarian arms control that gives human rights values a better place against typical security issues. Like so, this is another example of how the relationship between human rights and security has evolved to favour human rights more. It is also an example of the background surrounding the social construction of the paradigm that allowed for the ATT to happen.

Actors and interactions of the human rights and security relationship

The interspace in which the human rights and security relationship occurs is as important as the actors that conform it. The activities these actors carry out are

equally crucial to the development, and therefore to the understanding of the human rights and security relationship. This part of the chapter will focus on precisely this. The human rights and security relationship is led by state and non-state actors. Most of the times, it tends to be that non-state actors support the human rights side while state actors the security side, but this is not necessarily black and white in all cases. As will be seen in the case studies, some state actors change the side they support depending on their moral and material interests at the time and depending on the domestic and international circumstances that surround them. This chapter will talk about a dialogue between constructivism and the English School of IR to set a basis for the understanding of the case studies presented further.

Recent key actors that have supported the advancement of international norms that fall in the sphere of the human rights and security relationship, like the ATT, have been NGOs. NGOs tend to stick to their side and keep advocating for it more and more strongly despite changes in circumstances. IR theory, particularly constructivism, has focused in studying these non-state actors since about a few decades back. Margaret Keck and Kathryn Sikkink 1998 work has become the basis of these studies and large influence on the focus of this thesis. It has also set certain types of non-state actors and their activities as key in the development of a more important place for NGOs in the international scene as well as in IR theory. Studies on global civil society have also made NGOs centre stage and have given perspectives on how these actors use normative tools to influence state actors. These actors have also played a crucial role in the social construction of global governance and on defining how the elite designated to lead the international system works. Non-state actors are using norms, in particular for this study arms control norms, to achieve this. Below, all these stances will become apparent through the continuing deconstruction and construction of the interspace of the human rights and security relationship and the actors and activities that surround them. First there will be a taster of state action to continue further with non-state actions and interaction in a global human rights and security relationship.

State's actions in dialogue: constructivism, the English School and sociology

States are complex beings and so are their actions, particularly those relating to norms based on the human rights and security relationship interspace. As will be seen in the cases presented in this thesis, actors perform through a complex nexus of key material and moral interests that are partially determined, directly or indirectly, consciously or subconsciously, by other actors' actions, by outside circumstances of the system as well as by the human rights and security normativity locally and internationally. This complexity of influences can only be understood with a combination of theoretical viewpoints, just as it was mentioned in the introductory chapter of this thesis. Starting with a constructivist point of view to then evolve into an English School one with a sociological point of view as well. Saying that state's preferences are defined by norms is constructivist, as explained by Martha Finnemore (1996). In her 1996 work, she aims to respond to "one of constructivism problems

that the relationship among principles, norms, institutions and identities are not well defined and at times some researcher's norm could be another's identity; also, social elements of the relationship between these are not taken into consideration" (1996, p. 16). This is particularly crucial as norms are social structures, for Finnemore. Since the 1980s some authors have elevated social structures to causal status³⁰; in fact constructivist authors have done the same in Katzensteins's collection of essays: "The Culture of National Security"(1996). All of the contributors to the volume make social structures causal because they argue that they mould state's preferences, as has been seen previously.

Finnemore argues how constructivism is not good at explaining social structures as casual variables, therefore it must be united to the English School and institutionalists to impart causality to the social structure (Finnemore, 1996). One approach to the causality of social structures is found in the English School.³¹ The English School's central claim is that the practice of states is shaped by international norms, regulated by international institutions and guided by moral purposes (Dunne, 2011). It also combines the realist international system with the liberal world society to create the international society, where in fact norms and social structures affect states' behaviour.

Because the English School has been criticised as needing to be more sociological, then the most comprehensive approach to social structures as causal variables is the sociologists view called institutional structure (Thomas et al., 1987). Unlike constructivist, they view social structure as coherent and all encompassing; unlike the English School, where states are primary actors, they understand international society to be a society of states but focusing on a broad range of actors where world culture influences organisations and individuals as well as states (Boli and Thomas, 1999b; Finnemore, 1996). The institutionalist perspective fails to go far enough to impart the social structure's causality. Although this approach best explains causality, the three of them- constructivist, English School, and institutionalist work best when together. In institutionalist terms, "the society of states described by the English School and the norms and understandings identified by the constructivist can be understood as manifestations of much larger and more comprehensive world cultural forces" (Finnemore, 1996, p.21). Taking this as her basis, Finnemore takes the mutual constitutivity of agency and structure (Wendt, 1987) by focusing first on the power of social structures and then on the agent side to prove that both are important (Finnemore, 1996). This allows for another of the criticisms of constructivism to subside and allows for the basis of the explanation between the influence of the

³⁰ See (Haas, 1990; Kratochwil, 1989; Puchala and Hopkins, 1982; Ruggie, 1982)

³¹ Most prominent scholars of English School: Hedley Bull, Martin Wight, Charles Manning, Robert Purnell, James Mayall, John Vincent, Barry Buzan, Tim Dunne, James Der Derian, Ole Weaver, Andrew Hurrell, Robert Jackson, Edward Keene, Andrew Linklater, Richard Little, James Mayall, Hidemi Suganami and Nicholas J. Wheeler to mention a few.

relationship between human rights and security on actors behaviour within the ATT, as will be seen in the case studies of this thesis.

Finnemore's international society and social norms, that create particular patterns of behaviour, shape or constitute the basic features of politics that most IR theory take as given: "what states want and even who or what states are" (Finnemore, 1996, p.130)³². The English School and institutionalist do explain the patterns of behaviour or the characteristics of their causality in some way, but neither pays sufficient attention to norms regarding human equality (Finnemore, 1996). Human equality is important for Finnemore for it is one of the three foundational normative elements of her international society. The other two are bureaucracies and markets. In the international society, International Organisations through international norms socialize states into accepting new values.

Beyond Finnemore's understanding there is a further affinity between the international society tradition and constructivism, according to English School scholar Tim Dunne (1998), Barry Buzan (2004) and to Christian Reus-Smith (2009).³³ Theorist from both parties, have gathered inspiration from each other, like Tim Dunne from Alexander Wendt, or constructivist in general from Martin Wight and Hedley Bull.³⁴ Both theories "assume the centrality of states, and both interrogate the meaning of international system/society according to the intersubjective practices through which it is constituted" (2009, p.58). The two views also share "interests in the cultural bases of state identity, the rule-governed nature of international society and the variable forms of life under anarchy" (Ibid.). The English School and constructivism also fall short upon understanding that interests cannot be defined without values, or strategies devised without knowledge (Ibid.). This is why beyond their similarities, both theories can be placed together to further comprehend the complexity of the international system and to bring them closer to the ideal theory, as Reus-Smith says (Ibid.).

The parallelism between constructivism and the English School is much more complex, however this explains that state's actions, as well as non-state actors' actions, need to be understood within these parameters in order to see their connection to the human rights and security relationship and with its interspace. It is also true that understanding actors in a much more open way allows to see the connection between the ATT, the human rights and security relationship and this thesis's hypothesis relating to states controlling the means of violence, as explained above. How state's actions are contingent to other's actions and to the human rights and security relationship to arrive to states giving rights but controlling the means of violence needs to be seen in an exemplified manner. This is why further study of

³² Finnemore's international society is nothing particularly new, she recognizes that she takes elements of Weber, Tocqueville, Locke, Durkheim, Marx, etc.

³³ The English School of International Relations is also sometimes referred to as international society or British institutionalism.

³⁴ For more information on this see (Reus-Smit, 2009, pp.59–60).

states and their interaction in the human rights and security interspace will be better reviewed throughout the case studies presented subsequently. This is also why, in the remaining part of this chapter the focus will be more on non-state actors.

TANs: key socializing actors and the “boomerang effect”

Beyond focusing on the understanding of actors, especially states, and viewing them from a holistic point of view encompassing diverse theories of IR and sociology, it is key to delve deeper into the diverse angles upon which non-state actors are interpreted. This, especially seeing non-state actors, in particular NGOs, importance and influence on the balancing of the human rights and security relationship. Although, as already mentioned, some scholars (Keohane and Nye, 1977) had focused on transnational actors and other early constructivist began to fit norms into their research (Adler, 1997; Dessler, 1989; Kratochwil, 1989; Kratochwil and Ruggie, 1986; Wendt, 1987; Thomas et al., 1987; Meyer and Hannan, 1979), it was not until 1998 that transnational advocacy networks really became centre stage in constructivism and in IR. In order for actors to succeed, the agents or actors at work in the human rights and security relationship happen to form networks to obtain their objectives and through this multiply their opportunities for interaction and exchange (Keck and Sikkink, 1998). Margaret Keck and Kathryn Sikkink, from a constructivist point of view have studied the dynamics of these networks and have named them transnational advocacy networks. Transnational advocacy networks (TANs) evoke “the structured and structuring dimension in the actions of these complex agents” (Keck and Sikkink, 1999, p.90). Again, it is a theoretical dedication to agents and the manner in which they interact.³⁵ In fact, they claim that on issues of human rights, like the ATT for example, these networks interact and “also make international resources available to new actors in domestic political and social struggles” (Keck and Sikkink, 1999, p.89).

Similarly to Sikkink’s work, alongside Finnemore (Finnemore and Sikkink, 1998), on norms, draws on sociology to understand the complex interactions between actors. The agents tend to be NGOs at a domestic and international level. These networks are not new; in fact, the birth of the ICRC is an old example of these networks being at work since the end of the 19th Century. They have become more evident in the last decades and thanks to this literature they are tying up development studies and international studies to reach a better understanding of them. Transnational

³⁵ As focus on global civil society will follow, it is important to mention that Keck and Sikkink make the distinction from global civil society. They do not specifically refer to Chandler’s work, as it was written after Transnational Advocacy Networks. They refer to the predecessors of Chandler’s global civil society (Boli and Thomas, 1999b; Meyer and Hannan, 1979; Thomas et al., 1987). Keck and Sikkink claim that global civil society ignores issues of agency and political opportunity and some see NGOs not as actors but enactors (Boli and Thomas, 1999b). The work of Chandler and his contemporaries does allow for agency and its interactions to flourish. However, for purposes of this thesis, at times NGO, TAN and global civil society are used interchangeably.

networks according to Keck and Sikkink tend to emerge with issues where there is a lack of communication between the needs that local NGOs see and the officials in charge of addressing them. Such is the case for human rights, and in particular for this thesis human right security issues. Keck and Sikkink's networks function through a "boomerang effect". The "boomerang effect" puts national and international NGOs, social movements and networks as exerting pressure on the state from above and from below to bring human rights change in authoritarian regimes.

Putting TANs centre stage and based on the "boomerang effect" other constructivist and ES scholars have carried out large studies that push towards a more comprehensive union between human rights and security and the norms and norm internalization surrounding them. These studies have become crucial to understand the construction of norms, and even more so the internalization of human rights based norms. This research results invaluable to the deeper understanding of how regimes, like the ATT, are internalized and how their internalization has consequences that have been theorized upon and will aid in the analysis of this thesis' case studies. The power of human rights and the persistent power of human rights books (Risse et al., 1999; Risse et al., 2013) focus on the series of steps that a norm must endure to influence the state. The study argues that the process by which international norms are internalized and implemented domestically is the process of socialization (Risse et al., 1999). This process has three necessary mechanisms: (1) processes of instrumental adaptation and strategic bargaining; (2) processes of moral consciousness-raising, argumentation, dialogue, and persuasion; (3) processes of institutionalization and habitualization. The three types of socialization socialize non-compliant states into human rights norms during distinct phases also known as the "spiral model" (Risse et al., 1999; Risse et al., 2013). This model is inspired by the "boomerang effect" where the international network that pushes for change also supports local organizations (Risse et al., 1999, p.18). In these processes states make concessions but also sometimes follow norms because they want others to think well of them, and because they want to think well of themselves (Fearon, 1997). This has served as an example of the crucial role that TANs play in the realm of international law and particularly in the advancement of norms directly related to the human rights and security relationship. All in all, these authors example reminds us that: "The diffusion of international norms in the human rights area crucially depends on the establishment and the sustainability of networks among domestic and transnational actors who manage to link up with international regimes, to alert Western public opinion and Western governments (Risse et al., 1999, p.5)".

Global Civil Society

The process of globalization together with the end of the Cold War allowed for more global focus in academic, diplomatic and theoretical terms. Little by little it brought new dimensions in international relations theory focused on other actors beside the states. Besides the recently mentioned studies on TANs, work on global

civil society has also set non-state actors as centre stage. This because, the tendency to focus on states can lead to “only legitimise and perpetuate discourses and practices of political regulation which are built on—and maintained by—exclusion and war”(Chandler, 2004a, p.315)³⁶. Before this turn in IR, realists and liberals exaggerated their focus on military and economical factors and claimed rationality of actors. After this turn, some academics decided that it was better to focus on norms, values and the power of ideas rather than the power of empirical force (Finnemore and Sikkink, 1998; Mannes, 2002). This has given “greater focus on the global civil society without dismissing the role of the states, making the study of the global system, a system increasingly composed of layers of political institutions, individuals, groups and even companies, as well as states and international institutions” (Anheier et al., 2005; Kaldor, 2003, p.583).

Global civil society can be referred to as similar to Kant’s universal civil society and has come into the experts’ attention since the early 90s. The global civil society refers to the non-state actors that operating ‘beyond the confines of national societies, politics and economies’, and to new global norms and values variously ascribed to these actors or derived from their interaction (Anheier et al., 2005; Chandler, 2004b; Chandler, 2004a). The activities of the global civil society have permitted a “shift from formal national institutions to new local and cross-border spaces” (Kaldor, 2013a, p.148). As examples the humanitarian security norms that NGOs have conceived and led: the Ottawa Treaty, the Cluster Munitions Ban and the Arms Trade Treaty. Like this, the actions of the, so called, global civil society have also brought to light the power of norms and the human rights discourse that has been raised above sovereignty and has put a new positive agenda (Chandler, 2004b).

Constructivism has broadly focused on theorising on global civil society, where non-state actors pressure states into acting in a more morally enlightened manner that has redefined and reconstructed their identities and interests, becoming part of a new post- Westphalian moral agenda (Chandler, 2004b, p.19). The way in which the global civil society pressures the state is through international normative structures created by multiple interactions of state and non-state actors (Ibid., p. 25). This view exemplifies the influence of structure on agency through a constant interaction between the two that generates dynamic results that more and more value certain topics over others, like human rights further intertwined in the security realm defined by normative agents in the global political arena. In this sense, David Chandler, claims that constructivists assumptions of global civil society demonstrate the importance of ideas, or moral and ethical dialogue, over the importance of power relations (Chandler, 2004b, p.55). He also claims that the explanation for the rise of moral and ethical concerns cannot be found in the international sphere or the new international pressures from non-state actors but in the projection of national interests and

³⁶ Chandler references this conclusion as coming from: (Campbell, 1998; Connolly, 1991; Foucault, 2003; Pogge, 1994)

domestic change (Chandler, 2004b, p.81). This view complicates the role and perhaps the importance of the global civil society, although it does make a point to take into consideration national themes just as much as international ones. In other academics view the reasons for change are actually a combination of domestic, international and everything-in-between circumstances, as will be seen below in Avant et al's work on "Who governs the globe?" (2010). This combination of reasons will become important for this thesis, for when studying the case studies, it will be important to focus on the influence of the international structure but also on the domestic peculiarities of each case to understand the nexus of key interests that are at play on each case's human rights and security relationship.

Who governs the globe?

In the interspace of the human rights and security relationship, if the global civil society or TANS have been slowly gaining entry into the governing elite of the international system, how does this governing body work? In the IR theory, global governance is regarded as instance of governance in the absence of government where there is no government at the global level, but there is governance, of variable effectiveness (Ruggie, 2014). In this case, the social construction of reality is awarded to agents in the international arena. It is these agents that are in charge of defining, changing and adapting realms of social life to cope with structural changes. Global governance, explains this dynamism and studies the ins and outs of the governors and their interactions. Global governance has many definitions but all more or less conclude of it as: "the sum of organizations, policy instruments, financing mechanisms, rules, procedures, and norms" or "the collective effort to identify, understand, and address worldwide problems that are beyond the capacity of individual States" ((Najam et al. 2006; Club of Rome n.d.) in (Avant et al., 2010)).

Deeply studied by Avant, Finnemore and Sell in 2010, this part of constructivist IR theory has evolved from studies of the interaction of agency and structure that started around the time of the fall of the Berlin Wall alongside the empowerment of new types of actors due to globalization, privatization and technological change (Avant et al., 2010; Bull, 1977; Wendt, 1992). Global governance has looked into making sense to the new interactions between state and non-state actors increasingly gaining centre stage in world politics. Particularly in the 1990s, global governance efforts were clear and had strong effects. To mention a few pertinent for this thesis: the 1993 Vienna Declaration and Programme of Action of the World Conference on Human Rights and the 1997 Mine Ban Treaty. Both involving non-state actors and their undisputed presence and leadership in international affairs. The actors in these outcomes are active agents who want new structures and rules (or different rules) to solve problems, change outcomes, and transform international life (Avant et al., 2010).

Avant, Finnemore and Sell's hunch is that "it is not the type of actor but the character of relationships, both among governors and between governor and governed, that is key to understanding global politics" (Avant et al., 2010, p.3). Focusing on the governors it is understandable that structural constraints may explain their changes, but for Avant et al, governance is the result of constraints generated and led by agents. This portrays the high importance of agency in constructivist study and the importance of it to this thesis. Because these agents do not live in a vacuum but in constant change, their relationship and acting dynamic is driven by exogenous and endogenous factors as well as constraints. Avant et al conclude that these are not only intermestic ones- defined by Putnam's two-level game (1988) but constraints that reside in multiple levels that build upon themselves to create a distinct method of global governance depending on the case. This will be seen in the diverse case studies of different types of agents for this thesis.

In global governance, there are multiple authorities, just like it will be seen in the case of the ATT between leading NGOs and championing states. This does not signify that if an NGO has power it would mean less power for the state, on the contrary non state actors sometimes enhance state power as will be seen in the case studies of this thesis. Governors also function by seeking trust to gain legitimacy even if the structure of global governance is informal. A final conclusion of Avant et al is that expecting surprises within the study of the relationship of the governors and how they achieve their duties is key to understanding the dynamic processes of global governance.

Today, global governance is slowly becoming more apparently weak. Global governance architectures, legal and institutional, are said to be fragmenting (Biermann, Pattberg, Van Asselt, & Zelli, 2009; Koskeniemi & Leino, 2002 in Ruggie, 2014). Traditional forms of international legalization and negotiation through universal consensus-based institutions are stagnating (Pauwelyn, Wessel, & Wouters, 2012 in Ruggie, 2014). For Thomas Weiss and Rorden Wilkinson, it remains slippery and abusively used, by academics and policymakers, as an attempt to control the pernicious aspects of globalization, and a synonym for world government (2014). They raise issues about the somewhat lacking deeper investigation of global governance in terms of: how power is exercised globally, structures of global authority, increasing complexity, actor proliferation, and change. Although, Martha Finnemore has replied to these concerns (Finnemore, 2014) by sketching more focused research agendas on these issues, the fact of the matter is that global governance is changing.

The relative decline of the West and the rise of new powers, like the BRIC countries, as well as the rise of nationalistic populist governments add to this change. New dynamics are being shaped every day with every new world issue. The number of significant countries and significant non-state actors has risen. However, the existing dynamism appears to at times continue to preference established powers (Stephen, 2017). This is taking global governance into a new era, an undefined era that unlike the golden era of the 1990s is more complicated and more fragmented. However, this

can also be seen as the expectation of surprises that Avant et al conclude in their work. Which brings to the idea the non-static evolution of governance and therefore of the factors surrounding it.

Global governing through multilateral arms control

Tying up norm creation with global governance within the realm of the interspace of the human rights and security relationship is easy when focusing on governing agents and their interactions in the international arena. Because agents play a deciding role in global governance it is also important to understand them within the arms control environment that the ATT puts them in. Harald Muller and Carmen Wunderlich, focusing their empirical research on multilateral arms control, explain the dynamics within norms in response to the constructivist criticism of lack of agency. The authors argue that their view is less static and agency based with particular notice on agency represented by the so called norm entrepreneur (Finnemore and Sikkink, 1998). They base their theory on a Putnam's two level game (1988) where the domestic stage influences the international stage and vice versa, to explain how these norm entrepreneurs make their decisions on norms. In this two level norm discourse, agents have to engage in bargaining both with their international interlocutors in order to achieve agreement and with their principals in order to achieve sufficient compromise to give their consent to the agreement (Muller and Wunderlich, 2013, p.10).

Muller and Wunderlich describe norm dynamics as the meaning of the norm that may change from beginning of the norm-setting process onward and is subject to change by agency (Muller and Wunderlich, 2013, p.11). There is no norm dynamics without intentional agency and that is why most of the book is devoted to norm entrepreneurs and their drive to change norms. Like this, the authors recognize the static-structuralist bias of constructivist research on norms (Wunderlich, 2013, pp.20–21). Norm change is triggered by disputes arising from applying the norm to a specific situation or in reaction to triggering events or acts (Wunderlich, 2013, p.30). In opposition to Finnemore and Sikkink (1998), norm entrepreneurs do not necessarily have to be in the initial phase of the "lifecycle of a norm", actually for Wunderlich they have to be in a later phase.

Muller identifies three types of norm entrepreneurs: (1) Common- good driven; (2) Conventional-driven; and (3) In between (Müller, 2013, pp.352–357). States are not the only actors that can be norm entrepreneurs, in particular in type (1) NGOs and IOs- if they act in an independent way, pursue a combination of common good, humanitarian, and justice orientations that the individual as the rightful moral claimant entitled to be protected; this explains why this group of entrepreneurs is

strongly promoting humanitarian arms control (Müller, 2013, p.352).³⁷ Meanwhile, the actors in type (2) are states, most times great powers that according to Muller and Wunderlich's findings are dominate their concerns on national security. Much like it will be seen in these thesis's case studies, there is no norm dynamics without intentional agency for the authors as well as norm entrepreneurs that can act in a later phase of the lifecycle of a norm. This clearly in relation, as will be seen further forward, to *norm implementers*.

In some ways the topic of this thesis, particularly the focus on the implementation of a multilateral arms control treaty and the interests behind it, can be relatable to parts of this work: Norm Dynamics in Multilateral Arms Control: Interests, Conflicts, and Justice (Muller and Wunderlich, 2013). However, there a few reasons why it is not. First of all, the methodology, analytical framework and theory combinations are not the same. Chapter 2 of this book focuses on humanitarian arms control alongside with weapons of mass destruction. Fours chapters are dedicated to the different agents involved in norm dynamics. It does so, by basing on Putnam's two level game, different to this thesis that goes beyond and into a multilevel game. As David Mutimer, in his of review says: "Although the book does a very good job at studying the legal commitments, the contradictions that have either emerged or been coded within them, and the strategies that the most salient states have taken. It does, however, leave very little room to explore the central problem that spurred the book: what is the relationship between norms and interests" (Mutimer, 2014). This is where this thesis differs and adds onto this study, by truly focusing on the nexus of moral and material interests of human rights based security norms.

Conclusion

Throughout this chapter the interspace and the key actors of the human rights and security within it have become clear through the focus on norm dynamics in the realm of arms control. A genealogical sense of understanding coupled with constructivism continues to guide the understanding of the interspace of the constructivist human rights and security relationship. A particular actor in this interspace and actors, and in the international system in general, are non-state actors. Specially with the CMV lens that this thesis seeks to carry, non-state actors become the holders of global-local action that allows for radical and inclusive forms of controlling the means of violence and avoiding embedding with militarism. These actors, whether performing as networks, individually, within the state or internationally have been gathering momentum for a few decades to appear centre stage in practice, in theory and in this chapter. Their activities have been responsible for the underlying recognition of the human rights and security relationship in the

³⁷ NGOs, certainly the most moral actors in the field, are also organizations with material interests (in funding) and leaders who, at times, display in elevated egos. Battles over turf are not infrequent, and coordination is always a problem (Müller, 2013, p.352).

area of arms control, located in the newly created norms like the ATT. This has not meant that state actors have been overlooked, in fact non-state actors almost always work in relation to state actors, especially when promoting human security (Axworthy, 2001).

The construction and maintenance of the ever-changing interspace in which the human rights and security relationship develops comes from multiple poles, including state and non-state actors. Nevertheless, as will become apparent in the rest of the chapters, non-state actors balance out more, or more purely, the human rights and security relationship towards the human rights side, which is usually the most needed side. The construction of the interspace that allowed for the human rights and security relationship to continue flourishing and for the Arms Trade Treaty to happen and continue being implemented the right way, is the sum of diverse concepts and perspectives on actors that have been explored by different scholars in the field of arms control in IR. The interspace concepts of humanitarian security regimes, disarmament diplomacy, contemporary arms control, humanitarian arms control and small arms and light weapons, have a different focus, even though they touch upon similar topics. The concept of CMV, as has been explained in this chapter and in chapter 1, has allowed to understand the need to focus on actors, particularly non-state, to include forms of global-local action and moral action to explain the weaknesses of constructivism.

The second part of this chapter has been dedicated to the actors of the human rights and security relationship. This part focuses more, although not exclusively on non-state actors as in most cases they support more the advancement of human rights, or at least in a purer way. The studies used in this part of the chapter exemplify well how non-state actors develop in the interspace of the human rights and security relationship. Each study has a different perspective, but all are based upon non-state actors called by different names, like transnational advocacy networks or global civil society. These actors interact and socialize within them, with other non-state actors and with state actors in order to achieve their purpose.

Farther than paying attention to state and non-state actors and observing them from an all-encompassing theory, it is imperative for this thesis to focus on NGOs and how they have gained prominence in International Relations, in the international system and in the human rights and security relationship. The beginning of further importance on non-state actors was with what Margaret Keck and Kathryn Sikkink defined as transnational advocacy networks or TANs. Focus on TANs means focus on agents and on the way in which they interact. For example, with issues of human rights these agents also make international resources available to new actors, as will be seen with the actors in the ATT creation and implementation in the following chapters. Similar to TANs, global civil society pressures the state through international normative structures (Chandler, 2004b), demonstrating the influence of structure upon agency, the constant dynamics involved and the importance of ideas, morality

and ethics over power (Ibid.). Morality and ethics, David Chandler claims, stem from national interests and domestic changes. However, these changes are actually considered to be a combination of national, international and everything-in-between circumstances, as Avant et al's work has come to show (2010). This combination of reasons is important for this thesis, as it encompasses the nexus of key moral and material interests that push for the enhancing or attenuation of the human rights and security relationship. What matters most is not the type of actor but the character of the relationship between governors and governed. Global governance is constantly changing, as are its agents, the current understanding of global governance is declining affected by factors coming from all levels. This is why Avant et al, conclude to expect surprises. This will become apparent in the case studies that will follow, as agents, whether state or non-state, are bombarded by changes in circumstances from above, below and everywhere in between. Their interests are defined by domestic, international and other levels and are ever-changing and non-static. This will show the effect it has on the human rights and security relationship of each case. Then, particularly the interaction between different actors, usually between state and non-state actors, will allow the explanation of moral action and therefore aid in the weaknesses of constructivism. Due to the complexity of the actors and of the circumstances that circumscribe them, the further socialization of actors will become more obvious as the case studies are developed, as well as when the next chapter studies the Arms Trade Treaty, its actors, its institutions and its mechanism of fulfilment.

Chapter 4- Arms control in the Arms Trade Treaty implementation

Introduction

In the period from 1989 to 1996, there had been \$150 billion worth of global arms transfers, the US accounted for over 45% of them (Arias, 5 October 1996). This massive availability of weapons and the transfers that came with it were out of control with the majority ending in countries with severe violent domestic issues. Oscar Arias, and a group of his fellow Nobel Peace Laureates got together to represent the civil society and publicly unveil the International Code of Conduct on Arms Transfers in 1997. The code asked that weapons-producing countries refrain from selling arms to states that live under dictatorships, commit human rights abuses or are engaged in aggression against other nations or peoples (Arias, 29 May 1997). This action is part of the many actions that the evolution of the relationship between human rights and security have brought, particularly since the end of World War II. It is these actions that pushed for the creation of the Arms Trade Treaty that came into force in December 2014.

The Arms Trade Treaty is a direct reflection of the legacy of the relationship between human rights and security that has been discussed in this thesis. Through its negotiation process, functioning and implementation, it exemplifies the balancing act that occurs between norm dynamics, global governance and humanitarian arms control. It reflects the push for greater attention of the humanitarian aspect of security issues started since the creation of the Geneva Conventions. It exemplifies the complexity that exists between actors, state and non-state, that juxtapose to create a new sort of dynamism between civil society, states and international mechanisms to impulse human rights in a typically considered security issue.

The ATT includes diverse ways of arms control, as part of chapter 3 has shown. These have clearly influenced the creation and continuity of the ATT as well as the actors' objectives and interests. This chapter will concentrate on the Arms Trade Treaty and will be divided into two parts: part one, on its characteristics and key issues before and during its creation and part two, on the implementing of the treaty post 2014 and the important role of NGOs in it. In the literature, the ATT has been extensively studied (Spies, 2009; Garcia, 2014; Stohl, 2015; Casey-Maslen et al., 2016; Bolton and James, 2014; Bromley et al., 2012; Carneiro, 2007; Kytomaki, 2015; Searle, 1995; Stavrianakis, 2016; Stedjan, 2013; Worster, 2014) with particular attention on the negotiations. This chapter, will not explore those works, only indirectly whilst talking about its humanitarian core, the role of normative agents in the first part and the description of the official treaty mechanisms in the second part. This chapter will serve as example of the cross-fertilization between constructivism and the English School, where a norm is the example that the practice of states is shaped by it as well

as being guided by moral purposes (Dunne, 2011). This will allow to comprehend how the norm entrepreneurs that will later become *norm implementers*, in the empirical chapters, have been continuing with what Keck and Sikkink set out for them: a boomerang effect of exerting pressure on the state from above and from below (Keck and Sikkink, 1998).

The first of the chapter part will evidence, a system of global governance, like the one described in chapter 3, where diverse agents play in a multilevel game seeking to change or improve the international structure. It will also seek to explain why states agreed to the ATT, or to any other similar regime. The importance of non-state actors and their socialization with state actors will become apparent. However, so will the still important role of states in the acceptance of human rights and security regimes. This will serve as a basis for the understanding of the nexus of key material and moral interests that aligns with the human rights and security relationship of each case presented in subsequent chapters.

The second part of this chapter will center around the implementation of the treaty, particularly from the side of the institutions of the treaty itself. It starts with an analysis of the official mechanisms of the treaty followed by the unofficial ones. This subpart will exhibit the preponderance of state actors, not only because the treaty is composed of states, but also because the institutions, dynamics and activities that surround its positioning into everyday international life do as well. It is important to mention that one of the key unofficial mechanisms of the treaty, ATT Monitor, will be one of the main focuses of chapter 5 and will therefore not be discussed in this chapter. The reliance on NGOs for the future of the ATT and their direct role in the evolution towards a more human rights based relationship between human rights and security will come about by the end of this chapter. This second part of the chapter will also coincide with this thesis' argument that the states of the ATT give rights whilst controlling the means of violence, where state and non-state actors complement each other in the search of treaty fulfillment. This chapter will also shed light upon why the ATT and its major actors matter, for purposes of this thesis and otherwise. It will demonstrate the complex dynamic of global governance between actors that continues to allow for the contemporary relationship between security and rights to continue its evolution. Also, attention on the treaty, its actors and its institutions will allow for an understanding of the organisations became the Treaty's norm entrepreneurs. The figure of norm entrepreneur will serve as a basis to understand the figure *norm implementers* of the ATT and of the human rights and security relationship that will be used across the case studies in further chapters.

Overview of the Arms Trade Treaty Pre 2014

One of the key facts about the Arms Trade Treaty is its humanitarian core, key for the advancement of these types of norms in the international system and key for the understanding of the evolution of the human rights and security relationship.

Humanitarianism is stated directly in the body of the treaty as well as indirectly in the long negotiations that precede it. The treaty and its humanitarianism reflect a clear position in favour of a more balanced human rights and security relationship. The same can be said about its key actors, like non-state organisations and championing states. However, as it will become apparent in subsequent chapters, this is not the case when looking at the implementation of the treaty. States joined the ATT for many diverse reasons, depending on the state. One crucial reason, as will be stated under this part of the chapter is the maintenance of their reputation. What is behind this action is a series of multilevel causes similar to those that will be analysed in accordance with the nexus of material and moral interests on the case studies.

Humanitarian core

The Arms Trade Treaty entered into force on December 2014. It is the first legally binding international mechanism to regulate the transfer of arms and manage their spread across borders. Article 1 states that the control of conventional weapons has the purpose of reducing human suffering and to contribute to regional and international peace. Its main provisions are to set rules for the transfer (meaning the export, import, transit, trans-shipment and brokering) of conventional weapons – meaning battle tanks, armored combat vehicles, large-caliber artillery system, combat aircraft, attack helicopters, warships, missiles and missile launchers and small arms and light weapons; under the treaty's provisions, national governments will need to examine the risk of these arms being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children (Delgado, 2015). The treaty makes definite prohibitions on arms transfers that build upon and reinforce the existing instrument of arms embargoes (Erickson, 2013). The United States has not ratified the treaty; mainly because it touches unto very sensitive domestic policies, like arms control but also because the US had since years before set its own checks on arms trade. Still, the treaty has been enforced without the US. In fact, leading up to the Arms Trade Treaty, the United Nations General Assembly passed three ground-breaking resolutions by overwhelming majority, signaling consensus on the need to proscribe weapons transfers that jeopardize states' commitments to IHL and HRL (Garcia, 2015, p.65).

The Arms Trade Treaty is humanitarian in its core. Besides reaffirming and acknowledging elements of the Charter of the United Nations and the Geneva Conventions that seek to promote security and human rights, it specifically recognizes the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms (United Nations, 2013). Similar to the Mine Ban Treaty and the Convention on cluster munitions, both human rights based security treaties, it is the culmination of over a hundred years of the evolution of the contemporary relationship between human rights and security. The ATT allows for humans to be the primary objective of a security issue, which in a typically

Westphalian perspective would never have happened. As has been discussed throughout this thesis, this has been made possible by decades of a norm cascade process started since the creation of the First Geneva Convention. The treaty is evidence that human rights has gained leverage against security in the human rights and security conundrum and that conceiving international issues taking into consideration the human rights and security relationship, directly or indirectly, consciously or subconsciously is effective. However, this is only in relation to the treaty's creation, that although imperative it is not where the story ends. Much attention and effort is still needed to make the ATT a well implemented treaty and to keep pushing for actors, especially some state actors, to prioritize human rights over, or at the same level as, security in the human rights and security relationship.

Key actors in the ATT negotiation

Similarly, to what happened with the creation of the First Geneva Convention, it was the civil society the one that gave the biggest impulse to create what would become the ATT. First a single norm entrepreneur: Oscar Arias and other Nobel Peace Laureates, later known as the Arias Foundation. Subsequently the creation by International Action Network Against Small Arms, Amnesty International, and Oxfam of Control Arms Campaign in 2003 intended to establish a binding international agreement to control the arms trade according to established principles of human rights, humanitarian law, sustainable development, and peaceful international relations (Spies, 2009). This story can almost be compared to Henry Dunant and the ICRC, where there are no norm dynamics without the norm entrepreneur (Muller and Wunderlich, 2013). Actually, more than a comparison it is clear that what some claim is the uniqueness of the ATT creation is actually part of the norm cascade brought upon by the Geneva Conventions.

However, the ATT is unique and the complicated negotiation process is evidence of the challenge human rights based regimes have on state actors, on non-state actors and on the system. All and all it took almost two decades of initiatives and even a failed attempt in for the treaty to come about. What this delay represents, among other issues, is the complicated relationship that actors have with the human rights and security relationship, with the advancement of human security, with the supposed partly loss of state preponderance over all things security internationally and nationally and with the overall acceptance of an advancement of non-state actors in the international system. Nevertheless, a new global governance dynamic came about with the ATT where non-state and state actors operated together to succeed. The support of the one of the world's largest arm exporter and Security Council member, the UK, was a major reason why the ATT triumphed. The UK's championing of the ATT's cause came as: "a breakthrough for activists who, worked for years for a treaty, elevating their cause to the next level and representing an important step to bring the treaty to life" (Garcia, 2014, p.428). The UK did not work alone, it gathered a core group of states: Australia, Argentina, Costa Rica, Finland, Japan and Kenya.

Interestingly, as will be seen in chapter 6, the UK's position has somewhat changed in relation to the ATT and particularly to the human rights side of the human rights and security relationship.³⁸

These norm dynamics and the state and non-state actor involved represent efforts in global governance where the Arias Foundation, Control Arms and championing states became active agents, in different phases of the negotiation, who wanted to achieve change in the international structure of normative security with a clear IHL and HRL core (Avant et al., 2010). The central group of states mobilized worldwide advocacy as vibrantly as the campaigners, with vision and principled pragmatism, inaugurating a new way to get things done in world politics, and within the UN (Morley, 2014; Bolton, 2013, pp. 9–10; Kimball, 2013 in (Garcia, 2014, p.428)). Even after the failure of 2012, due to the US's opposition, Mexico, a country that also became a core agent in the late negotiations, led the statement that 90 states continued to be committed to pursue the treaty.

These agent actions evidence a system of global governance where agents seek to change or improve the structure. They also signify a step towards a further evolution of the relationship between human rights and security. The actors have been influenced by domestic and international pressures but also by the heavily humanitarian discourse that surrounds security more and more. Some think that this is the outcome of relates to a broader post-Cold War trend putting human rights and humanitarian issues (Erickson, 2015). Others might think this is an outcome of a new movement of states wanting to raise morality issues in their foreign policies (Dunne and Wheeler, 2004; Dunne and Wheeler, 1999). However, it is also a clear effect of the norm cascade that the Geneva Conventions have brought upon and of the way in which agents are creating structural changes through the social construction of norms that define new paradigms in the international stage.

Why states accepted the ATT: international and domestic concerns

Although international politics are slowly changing, there is still a notion of state centric security prioritizing understanding of reality. Stemming in particular from the Cold War and prevailing notions of realist theory, as was explained in chapter 2. Unwritten norms of state interaction with international agreements joined by the importance of state actors have led to believe that states have a difficult time accepting instruments that might in some way erode their principals. Such is the case for the Arms Trade Treaty. So then why did states accept ATT?

³⁸ To date the UK has violated the precepts of the ATT and has sold millions of pounds worth of arms to Saudi Arabia protracting the crisis in Yemen. This will be further analysed in the chapter on the UK as case study.

Without a doubt the work of individuals- like Oscar Arias- and NGOs- like Oxfam, ICRC, AI, etc- had much to do with the impulse that led to the creation of ATT. However, ATT's history demonstrates how states acceptance was key for the treaty to advance. Without powerful state's acceptance, like in the first attempt of ATT, the treaty did not survive. Championing states were crucial to the negotiation, but these states, like the UK, were actually major arms exporters. What was their interest in abiding by an arms transfer human rights based security regime?

As will be experienced in further chapters, other non-state actors besides NGOs come into play in the interactions with the ATT and the human rights and security relationship. Other non-state actors that can be international or domestic and that influence the state's material and even moral interests. This will become more apparent in chapter 6 and 7. In the meantime and in relation with the ATT, it is important to mention that the military industry has a long term close relationship with the state which has resulted in an influential role in shaping domestic and international policies (Adams 1981; Eisenhower 1961; Kurth 1971; Markusen et al. 1991; Moravcsik 1993 in (Erickson, 2009)). Evidence of government subsidies and financial aid supports this (Hartung, 1996). Specially in the early 1990s it was believed that the voice of the arms industry should be reflected in state policy (Moravcsik, 1993; Moravcsik, 1991). The state is not so much an actor in world politics in its own right, but rather a "representative institution constantly subject to capture and recapture, construction and reconstruction by coalitions of social actors" and their interests (Moravcsik 1997: 518 in (Erickson, 2009)). This goes hand in hand with the nexus of moral and material interests that interplay in the human rights and security relationship of this thesis, as it will be later seen. What it means in practical terms is that the domestic sphere matters and it did so for states when negotiating the ATT. What happens nationally with the arms industry, specially for this case, is relevant. If the arms industry is interested in having arms transfers regulated and believes it will benefit from it, then their lobbying groups will push for acceptance of the treaty. However, domestic issues are not the only factor behind states decisions.

Jennifer Erickson's book *Dangerous Trade: Arms Exports, Human Rights, and International Reputation* argues that states engage in this type of arms export methodology to keep their international reputation intact (2015). Erickson finds that states policy choices have nothing to do with the defence industry preferences but instead they come from the desire to enhance their reputations as responsible citizens of the international community (Erickson, 2015; Erickson, 2009). Chapter 5 of Erickson's book turns to domestic reputation to explain states compliance. According to her scandals in the news on extremely irresponsible arms transfer can damage a nations reputation leading to loss of legitimacy and other political costs (Erickson, 2015). To keep these scandals at bay, states engage in treaties like ATT. Reputation as a social incentive for states is seen as a concrete mechanism through which states socialize. This does not mean that norm internalization and norm cascade don't exist,

simply that reputation is heading states interests when deciding to abide by a arms transfers regime.³⁹

The long negotiation and failed attempt exemplify the difficulty for states to accept the treaty. The answer as to why states accepted ATT, although casuistic, is a combination of domestic and international concerns as has been mentioned. It is also a representation of the effect that the dynamics of global governance have upon its actors and of the multilevel causation of actor's actions in the human rights and security relationship and in the international system in general. This will become even more apparent as the thesis carries on and the case studies are presented. Behind those concerns is the philosophy of the relationship between human rights and security. It is clear that the effect of a more human rights based understanding of security topics has permeated into the civil society, which has then permeated- directly or indirectly- into the state's decision making process. The Geneva Convention's norm cascade and norm internalization have also played a major role in allowing for the preponderance of human rights preponderance over security issues.

Post 2014: Implementing the ATT alongside NGOs

The power of human rights (Risse et al., 2013; Risse et al., 1999), the "boomerang effect" of transnational advocacy networks (TANs) (Keck and Sikkink, 1999) and the norm internalisation (Finnemore and Sikkink, 1998) of human rights and security instruments, like the Geneva Convention, have succeeded, all that is left is the successful fulfilment of the treaty. It has only been six years since the Arms Trade Treaty entered into force in December 2014. However, faults are quickly coming to shore and are giving both state and non-state actors gaps to fill. Dynamics between state and non-state actors in the implementation of the treaty reflect symptoms of global governance previously discussed on Chapter 3. Although most of the theory on global governance could be probably focused solely on the norm creation process there is much to rescue in terms of norm implementation. As will be seen in this chapter section, global civil society or NGOs pressures the state through the international norm structure (Chandler, 2004b). In fact, this goes further than the Arms Trade Treaty, for NGOs have sought state fulfilment across parallel projects of their own, as will be seen below. Although, deeper proof of global governance theories will be further noticed by the end of the rest of the case studies of this thesis, the ATT implementation case the interaction between structure and agency will be reflected within the sphere of multiple authorities (Avant et al., 2010) all within the constraints of an international arms control treaty.

³⁹ What happens then with the UK case? The UK was a championing state for the ATT and today sees itself in scandals of arms sales to Saudi Arabia that have brought upheaval in civil society. This issue will be discussed further in the upcoming case study chapter on the UK.

ATT official mechanisms- The Secretariat and Presidency

Following what is established in the Treaty document, in its preamble and in Article 5, each state party is responsible for taking all the required measures to assure a successful implementation of the treaty. With this, the treaty sets no formal mechanism to ensure this and leaves the door open for civil society to have a key role in doing so. The only official requirements are the annual delivery of a report on export-import of weapons as well as the attendance to the annual Conference of State Parties (CSP) which take place only once a year and do not allow for a year-long dedication towards the Treaty. Article 13 requires that each state submits annually a report of exports and imports of conventional arms established on Article 2. In order to comply with Article 13, one initial reports plus two annual reports are supposed to have been presented by each state so far. Transparency is crucial for the ATT's success and with reporting it is sought after. Reporting is the only measure that the Treaty has, since the ATT secretariat has no direct enforcement authority. The ATT Secretariat has the duty to assist State Parties in the effective implementation of the Treaty. As established on Article 18, the Secretariat is responsible to State Parties and undertakes these responsibilities: (a) receive, make available and distribute the reports as mandated by the Treaty; (b) Maintain and make available to States Parties the list of national points of contact; (c) Facilitate the matching of offers of and requests for assistance for Treaty implementation and promote international cooperation as requested; (d) Facilitate the work of the Conference of States Parties, including making arrangements and providing the necessary services for meetings under this Treaty; and (e) Perform other duties as decided by the Conferences of States Parties (United Nations, 2013).⁴⁰

According to an interview with former President of the ATT, Amb. Klaus Korhonen (Finland)⁴¹, the Secretariat has a simple structure, small but good (Korhonen, 2018). It is composed by three people: the head, the policy officer and the administrator. It is also "a government led position and it does not have a very extensive political role, the political direction comes from state parties" (Korhonen, 2018). This last fact, will be clearly exemplified by the a-political functioning of the CSP as will be seen under the next subtitle of this chapter. It is a reflection of the needed neutrality that a Secretariat ought to have but also of the continued control from states to safeguard their interests. Throughout the interview with Amb. Korhonen, he continued to underline that the ATT was a treaty amongst states and therefore with this the importance of neutrality and a a-politicized nature. This was also reminded during an interview with Sarah Parker, Policy Support Officer at the ATT Secretariat (Parker, 2018). This is understood as important to achieve an international treaty, but it is also the reflection of the preponderance of state interests in world politics. With it, it also

⁴⁰ As will be seen further down, some of these duties have been aided by civil society organisations.

⁴¹ The ATT presidency changes every year, so far presidents have been from Mexico (temporarily), Nigeria, Finland, Japan and Latvia.

reflects the perhaps loft-sided relationship between states and non-state actors, and it could even be said between human rights and security. Obviously, it is in the Secretariat and President's best interest to achieve a humanitarian treaty, however the state parties' interests may vary according to each case as will be seen further below.

The function, management and location of the ATT Secretariat was not set until the preparatory and actual meetings for the CSP1 in 2015. It was a difficult subject to agree upon and became another example of the "complexity of multilateral diplomacy" (Marsh, 2015). Perhaps this is one of the reasons why today the ATT Secretariat and its duties can be considered small. It is also an indirect reflection of the preponderance of states in international affairs and the fear of losing sovereignty particularly over security issues. States afraid of their position being undermined have not allowed an international body to exceed in its managerial position, even if the Secretariat is responsible to State Parties, as Article 18 establishes. However, the treaty does allow for the dependence of help from civil society organisations. This reflects the norm internalization of human rights security laws that have been permeating and constructing a just space for human rights in the international arena for many years. Once more the power of human rights and with this the power of their most prominent carriers: the civil society. However, this fact is also the reflection of the preponderance of states in the international system and in the Treaty. In this sense, non-state actors are needed to balance out states and the human rights and security relationship. The ATT Secretariat does not have the duty that would give it a status of international governing body of arms trade control. In some ways, this space has been left for NGOs that allow for the relationship between human rights and security to evolve more towards human rights. This fact might be tricky, because NGOs place is possibly not as largely recognized and encouraged as the role of the state. Nevertheless, it can be seen as an advancement.

The final decision for the Secretariat's location also exposed the preponderance of large Western States. Three options were available: Vienna, Geneva and Port of Spain. In the end, despite what it would have meant to have the secretariat of such an important treaty in a non- powerful country the decision went for Geneva. Because of its location, Trinidad & Tobago, alongside the other Caribbean Island countries have become a hub for drug traffickers and a node for illicit trade and traffic of weapons. These states have been deeply engaged in disarmament and have engaged, promoted and supported international and regional efforts in favour of it. On one hand, it did seem like the most reasonable choice given the UN system facilities available in Geneva. On the other, it reflects that although this issue was put to a vote during the CSP1, and therefore all State Parties had a say, prevalence of larger states and a North-South divide amongst participant states. However, interestingly Trinidad & Tobago lost by only 3 votes (Stohl, 2015). Even though Port of Spain was not the chosen option, the sizable support it had from fellow State Parties displays that the

awareness of human rights security issues is widespread and not only limited to Western states.

After speaking with the ATT former President and the Policy Officer, the capacity issue for the secretariat came to mind. Certainly the Secretariat is a busy place and is, to date, fulfilling the requirements set by the treaty and required by state parties. It is important to see that the tasks set for the Secretariat and the gaps left, could have been approached in a different manner whilst the ATT was being written. This, again, exemplifies the state's interests in remaining the sole custodians of security related issues and the diplomatic constant of not allowing a type of international governing body over the state. This is not questioning the Secretariat's quality of their tasks, it is only a reflection of state's interests in international politics.

ATT official mechanisms- Conferences of State Parties

The decisions about the Secretariat, where not the only ones taken at the CSP1. Financial rules, rules of procedure, agreeing the President, Vice-Presidents and Management Committee for CSP 2016 and reporting templates were also in discussion. It was helpful to allow the Conference to authorize subsidiary bodies, other humanitarian and disarmament treaties, like the 1997 Mine Ban Treaty and the 2008 Convention on Cluster Munitions, to set up informal intersessional Standing Committees to assist with treaty implementation that proved to be valuable mechanisms (Casey-Maslen et al., 2016). Civil society encountered a gain, when discussing the rules of procedure for the Conferences. It was agreed that NGOs be allowed to speak in plenary sessions, as well as receiving official documents and submitting their views in writing at the Conferences. Industry representatives and non-State Parties have also been allowed the same rights. This openness of negotiation meetings during the Conferences increases transparency and confidence in the Treaty (Control Arms, 2015). Although the space for NGOs represents a win for civil society and therefore for human rights, the fact that the other parties- like industry, non-signatory states and non-ratifying states- have been granted the same right signifies equality but also a reflection of the type of players in the human rights-security relationship. The attendance of the civil society was facilitated by Control Arms, and contested by states like the UK, Switzerland, Norway, Romania and Cameroon. Actually, the UK pushed for sessions to remain close by default (Control Arms, 2015). Even so, an open Conference won, which shows the power of this NGO in the ATT sphere.

Conference of State Parties are attended by other non-ratifying states; these states might be signatories or not. Such is the case of the United States and China. All the invited contribute to the ATT Budget and the contributions are made public via a document on the ATT Secretariat's webpage. Based on this document, the top ten budget outstanding contributions from 2015- October 2017 from highest to lowest are: Japan, USA, Germany, France, United Kingdom, Italy, Spain, China, Australia and

Mexico (ATT Secretariat, 2017). Eight of these contributors are state parties, the second contributor is the USA who is a signatory but has not yet ratified, and the eighth contributor is China which is an observant. Contributions are calculated in accordance to the states 'membership agreement with the United Nations. This reflects the large amount given by states that are not member parties of the Treaty. Despite this, both the US and China contribute to the Treaty and participate in the CSPs whilst also heading the list of the top arms importers worldwide. Both countries, are allowed to speak at meetings during the CSPs but have no right of vote and member states are always prioritized over them. It is obviously in the US and China's best interest to be involved- directly or indirectly- in decision making processes of international trade of arms. On one hand, the behaviour of states like China and the US, alludes to a self-interest move (Moravcsik, 2000; Moravcsik, 1997), but also to the power of human rights (Risse et al., 2013; Risse et al., 1999). It exemplifies the complexity of state activity within the Treaty and its reflection of states aiming to reach a constructed organized outcome via international legal means versus an innate realist state behaviour. Treaty member states allow the participation of these non-members, weather signatories or observant, in hope that this will aid in their ratification or signing of the treaty (Korhonen, 2018). Especially when referring to signatory members, like the United States, their influence during the CSPs is shared actively with the member states. Also, besides the current US administration, the US has always participated actively at a technical level, which makes for a valuable participant of the Conferences. The US has always been a constructive partner and therefore their input is welcome at the CSPs (Parker, 2018).

Due to the urgent need for decisions about the functionality of the Treaty and the ATT Secretariat's final hiring, CSP2 and CSP3's discussions were mostly focused on administrative matters. A key advancement was on the creation of the Voluntary Trust Fund (VTF), as established on Article 16. The VTF is important because it aims to support State Parties who are in need of legal assistance, institutional capacity-building, and technical, material or financial assistance; such assistance may include stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation of Treaty obligations (United Nations, 2013). The Fund's objective is straightforward and if it functions correctly it should give states the necessary support needed to fully follow the Treaty.⁴² The VTF has geographically diverse member parties, which is important to have representatives of all regions and achieve a balance between likely donor and recipient states (Ibster, 23 August 2016).⁴³ There are 13 donor states.⁴⁴ Interestingly,

⁴² However, VTF is not enough to fully implement the treaty because civil society has created complementary projects to assist states particularly to correctly fill the yearly reports.

⁴³ VTF selection committee includes: Argentina, Chad, Côte d'Ivoire, El Salvador, Germany, Guinea, Japan, Mauritius, New Zealand, Nigeria, Sweden, Switzerland, and the UK.

⁴⁴ VTF donors are: Argentina, Australia, Czech Republic, Finland, France, Germany, Ireland, Netherlands, New Zealand, Spain, Sweden, Switzerland and the UK.

most donor states are top arms exporters. This only exemplifies the duality between being a state that has a significant part of its economy depending on arms exports and a state interested in defending and protecting human and humanitarian rights worldwide. Once again, strengthening the argument of this thesis of giving rights whilst controlling the means of violence. However, the donor states can be seen as progressive states and although top arms exporters they are dedicated more to larger armaments; “these states tend to be more supportive” (Parker, 2018).

The VTF is very recent and in the ATT Secretariat’s webpage a neatly set overview of the 1st cycle of the Voluntary Fund can be found. The total number of projects financed was of 17, interestingly 76% of the projects were led by a local or international implementing partner (NGOs) as opposed to led by the state itself. This shows the large NGOs interest in assisting the implementation of the Treaty. It can also mean the lack of capacity that certain states have and therefore the need for assistance. It is important to mention what the NGOs mission is in this. A project like this also means capital for NGOs, which can perhaps lead to question the organisations pureness in their intention of assisting the ATT implementation. However, it is NGOs- usually local ones, that know the state’s needs the most.

During CSP2, in August 2016, civil society was keen on discussing crucial matters like the use of arms by Saudi Arabia to cause harm on the Yemeni population. In the online Conference reviews, diverse organisations of the civil society- Control Arms, WILPF and the Stimson Center- concluded more or less the same issue: a lack of substance in CSP2 discussions. Despite specific efforts made by Control Arms and the diverse media coverage, arms transfers to Saudi Arabia were not discussed by state parties, but only mentioned by members of civil society. Meanwhile, Peru with the support of other Latin American states, requested that the final CSP2 report included a paragraph about the elements used to make the human assessment risk, like the UN Human Rights Council Resolution A/HRC/RES/32/12 on the Impact of Arms Transfers on Human Rights, which clearly mentions a connection with the ATT. Other member states, mostly large exporters, argued that this had not been discussed enough during the plenary meeting to have a place on the final report. In the end, the Peruvian proposed paragraph was removed.

CSP3 actually opened with a focus on the impact faced by communities in conflict, like the testimony of a Yemeni human rights defender that showed the consequences of arms transfers and the importance and power of the Arms Trade Treaty. However, the meeting mostly focused, again, on procedural matters and only Costa Rica mentioned Yemen during the meeting (Control Arms, 2017). Reporting was heavily discussed, as the ATT Monitor keeps showing the confusion over Annual Reports and

the fact that not all states have completed theirs either on time or in full.⁴⁵ The ATT implementation is key and the discussions had during CSP3 on reporting, the ATT Secretariat, universalization and transparency should strengthen it. Civil Society's participation was one again crucial, as well as the media coverage that CSP3 generated. In fact, many states stressed the important role of civil society in achieving the Treaty, these states are: Belgium, Bulgaria, El Salvador, France, Ireland, Mexico, Montenegro, Norway, Slovenia and Zambia (Control Arms, 2017). Interestingly, the Conference was held at the same time as the world's largest arms fair, which ironically meant that event to promote arms trade happened at the same time as an event seeking to control it. Perhaps, a clear reflection of the duality most states face of allowing its arms industry to flourish whilst regulating it. Also a clear similitude with today's relationship between security and human rights.

Although there were high hopes for CSP4 to discuss the Treaty more substantially, it was not necessarily the case, at least not on the official meetings. There was progress on other administrative themes, capacity building and information exchange. As well as a greater focus on going beyond what Article 7 establishes and properly discussing gender-based violence. Compared to other Conferences, there was a specific session on tackling the diversion of weapons into the illicit trade, however there was no specific discussion of compliance with obligations of the ATT particularly in relation to member states transferring arms to states using them against Yemen. In fact, ironically, the UK a country that as will be seen in chapter 6 does not comply with the main agreements of the Treaty, expressed that it "would not want states that cannot meet their financial obligations to join the ATT" (Pytlak, 2018b). This has allowed for a conclusion, from NGO members, to be wary of focusing too much on positive action in terms of capacity building and other administrative themes and not focus enough on areas of non-compliance.⁴⁶

All Conference of State Parties, so far, demonstrate a duality between procedure and substance, between practice and reality, between arms trade and arms trade control, between states and civil society, and between security and human rights. All encompassed in the centrality of international norm functionality. The CSPs have in fact advanced in administrative steps. There do seem to be sparks of humanitarianism amongst bureaucratic like meetings. There do seem to be honest humanitarian intentions buried within the constant perfectionism of procedural matters. However, CSPs seem to reflect a disconnect between what is said on paper from the practice. Every year, there is hope for a new CSP, and yet every year there seems to be key

⁴⁵ For example, only 64 per cent of ATT Annual Reports for 2016 had been submitted by the time CSP 2017 began, and three governments (Liberia, Panama and Senegal) had kept their reports private (Control Arms, 2017). Further analysis and explanation on ATT Monitor's report will be discussed under the next subtitle of this Chapter.

⁴⁶ See more on: (Control Arms, 2018; Pytlak, 2018a; Pytlak, 2018b; Bromley, 2018).

issues ignored. Perhaps, is early in the reality of the Arms Trade Treaty, but in order to achieve successful Treaty implementation rigour is needed. States might hide behind the fact that the Treaty is new and not mature yet; and although treaties require significant infrastructure, they also need “to be effective, treaties need political will...” (Pytlak, 2019). Political will from its member states is key to confront non-compliance from certain members and complementary effort between Treaty procedures and the civil society is needed as will be seen in the indispensable mechanisms of the ATT below.

ATT unofficial but indispensable mechanisms: gap filling

Because the story of the ATT took many years in the making, civil society expanded its commitment not only to achieve a fulfilling Arms Trade Treaty but also to allow for the creation of organisations dedicated partly and entirely to the cause. This was also influenced by the norm cascade and norm internalisation brought by the 1997 Mine Ban Treaty and the 2008 Convention on Cluster Munitions. To go even further, it is also the result of the clear norm internalisation of the Geneva Conventions and the human rights flow it brought.

Besides large NGOs that have dedicated part of their work towards achieving the Treaty, like ICRC, Amnesty International, Oxfam, and Saferworld, there are many medium size NGOs that have been dedicated portions of their work to the treaty.⁴⁷ For this study 15 were found to have at least one page of their webpage dedicated to the explaining the ATT before, during or after its creation. Of these, 5 do not appear to be affiliated to bigger NGOs, while the rest were created as affiliates of organisations like Saferworld during the ATT campaigning. There are 11 dedicated to the ATT implementation, by either publishing analysis on the ATT reports, documents to aid State Parties, briefing reports on implementation, case studies, lists of arms control experts worldwide, research papers, and blog posts. Five out of these 11, fully dedicate to the ATT, four of which were specifically dedicated to support on implementation. It is interesting to see that the majority of this last group has its headquarters in the United States. Of course the fact that the offices of the United Nations are in New York helps. This rather large representation of NGOs dedicated to the Treaty are a reflection partly of the norm internalization brought to by years of human rights based security regimes starting from the Geneva Conventions, but also partly of the power of influence brought forth by the Arms Trade Treaty and its mission. In this sense, human rights appear to keep gaining a stronger place in the human rights security relationship.⁴⁸

⁴⁷ Because there are many NGOs that have supported ATT or still support its implementation specially as local partners of Control Arms, the criteria used to research and analyse these NGOs was to include the NGOs that had at least one page in English dedicated to ATT.

⁴⁸ This sentence uses the word appear, because in the next section of this chapter the funding of these NGOs might slightly reverse human rights leverage over security in some way.

Two of the most important implementation based NGOs are the ATT Monitor- part of Control Arms, which at the same time is formed by many international and national NGOS- and ATT- BAP- part of the Stimson Center. ATT Monitor will be discussed in further detail in Chapter 5, but ATT-BAP will be set subsequently. Following the adoption of ATT, despite efforts made in the preparatory meetings and during the actual Conference, the State Parties did not decide on the reporting templates. An NGO that has been specifically developed to assist States with reporting is the ATT Baseline Assessment Project (ATT-BAP), adding a further gain to human rights. Since 2013, it seeks to provide guidance on the Treaty's obligations and to establish baseline assessments of the State's ability to implement ATT (www.armstrade.info). The project was created by two leading arms control personalities; full-time academic Dr. Paul Holtom (Coventry University) and consultant Rachel Stohl (Stimson Center). When going through the projects webpage- their objectives, motivations, activities, etc- its committed nature becomes clear. Its creators have extensive backgrounds on working with disarmament and with directly and indirectly pursuing international control of weapons. The project has foreseen the need for an unofficial mechanism to aid States on the implementation of the Treaty. It has also, kept up with the reporting issues that continue to need tackling given the somewhat poor results that the available ATT Reports have shown. As a State, the information provided, via questionnaires and downloadable resources, and the tailored guidance, allows for a better fulfilment of the obligations entailed by the ATT. As a researcher, the analytical reports and other resources available, give sufficient and interesting information to continue filling the gaps needed to continue in the path of a successful implementation of the Treaty.

For example, the latest ATT-BAP reviewing report of 2017 analyses if the Annual Reports are fulfilling the promise of the ATT. The percentage of states that submitted their report on time went from 46% of states in 2015 to 36% of states in 2016, even if this last figure later rose to 63% by the end of the year (ATT BAP, 2017). In fact, now by the latest 2018 report the reporting figures have become stagnant and the ATT has not been living up to its potential and Treaty application is becoming difficult to assess (ATT BAP, 2019). It is worrying the lack of commitment from states to fill in and turn in on time their annual reports. This can be due to the technical confusion and discrepancies mentioned earlier in terms of how to fill the report. Also, while there has been an increase of the states from Africa and the American continent that have joined the Treaty, there has not been an overall increase in the number of reports coming from these countries. This along the fact that the number of Treaty States Parties that have elected to not make their annual reports publicly available increased from one to three (ATT BAP, 2017), are signs of reduced transparency.

Although three years of reporting is not enough time to consider a trend, these are facts that need to be taken into consideration by the ATT Secretariat and addressed within the CSP environment. If these issues were to be left only on the hands of the

ATT Secretariat and CSP meetings, they would only be specifically addressed once a year. Here is where precisely ATT BAP is working to aid with a year-long monitoring and support to State Parties to reflect on the overall success of Treaty reporting. In theory, ATT BAP's work is essential to the oiled machine that the ATT should become, especially if State Parties are not involved directly in improving reporting conditions. Three reporting years, is too early to measure the actual effect this NGO is having on the treaties success, it would be interesting to analyse further ahead weather this has made a difference or not. However, for now, it can be seen that trends are showing stagnation and lack of commitment.

The ATT's imperfect reporting illustrates the importance that non-state normative agents have within the arena of the international arms transfers, like ATT Monitor and ATT-BAP. It also shows, that agents' duty goes further than the initial phases of the norm cycle. In fact, a large responsibility of the future of the norm's internalization and further influence of other norm creations lies heavily on NGOs capacity and focus, much like it is also shown in Risse et al's work on the power of human rights (Risse et al., 1999; Risse et al., 2013). This, of course, does not take responsibility away from states. It is almost like NGOs role in the enforcement of the Treaty is a representation of the "checks and balances" that global governance dynamics entail. Without them, the ATT and the actors involved, would not be able to continue influencing the human rights leverage on security. It is important to note that NGOs cannot hold states accountable or enforce them in any legal way to collaborate with the treaty, however they can indirectly name and shame those reports so that the rest of the civil society works together to demand compliance.

NGOs importance also highlights the non- state preponderance over state actors in the human rights and security relationship. Most times, states tend to guard security more closely than they do human rights and certain NGOs tend to keep human rights closer to their core. NGOs being in charge of enforcing a human rights based security regime, like the ATT, strengthens human rights position over security in their relationship. The Treaty enforcement led by NGOs is eroding little by little the states preponderance over all things security. This step, is still in its initial phase and it will take long hours of work from NGOs to ensure further change in the relationship between human rights and security.

Conclusion

The previous chapters have been dedicated to the deconstruction of concepts in order to understand the construction of the human rights and security relationship. This chapter has emphasized the construction of the relationship with particular presence on the Arms Trade Treaty. The first part of this chapter has been evidence that the humanitarian core of the Treaty is an influence of human rights instruments like the Geneva Conventions and the UN Charter, among others. It has also been evidence of the multilevel game that a system of global governance and its agents

play to improve the international structure. This multilevelness is unique and complex, representing the difficulty actors have in accepting the advancements of human security and supposed loss of state preponderance. In this the UK became a key actor, that later backfired as will be perceived in chapter 6. As will be seen in more detail on chapter 6, the same state actor has avoided full compliance of the Treaty and has been somehow fully reprimanded to do so.

Part two of this chapter centred around the implementation of the Treaty and the practices and institutions that surround it. Global governance dynamics, the power of human rights (Risse et al., 2013; Risse et al., 1999), the “boomerang effect” of transnational advocacy networks (Keck and Sikkink, 1999) and the norm internalisation (Finnemore and Sikkink, 1998) of human rights and security instruments filled the ATT negotiation but they are also filling the implementation. The ATT implementation, has become the interaction between structure and agency reflected within the sphere of multiple authorities, with constraints of an international arms control treaty. Since the Treaty has not set any formal mechanisms to ensure these constraints, it has left the door open for NGOs to do so. Because the Treaty, is a treaty amongst states, the political direction of the Secretariat comes from them. Therefore, it is important for the Secretariat to keep a neutral and a-politicized nature, like former ATT president Amb Korhonen and Policy Support Officer of the ATT Secretariat, Sarah Parker underlined in my interviews with them. The complexity of multilateral diplomacy and the preponderance of state interests, particularly Western State interests, in the Treaty is what this shows. States give rights, by agreeing to treaties like the ATT, but they still control the means of violence, as this thesis hypothesis states. Nevertheless, the lack of authority of the Secretariat has left a space for NGOs to allow for the humanitarian side of the Treaty to grow. CSPs have also become a place where the equalities inequalities of the human rights and security relationship can be seen. More than anything, the result of all the CSPs is that, as this thesis argues, states gives rights whilst controlling the means of violence.

Besides the formal mechanisms and institutions of the Treaty, civil society has been filling in the gaps need to achieve a fully complied Arms Trade Treaty. There are over 15 international NGOs that at least have a small part of their work dedicated to the ATT. Two of the most important implementation based NGOs are ATT Monitor, part of Control Arms, which will be central case of chapter 5, and ATT-BAP part of the Stimson Center, with financing of diverse member countries. The ATT’s imperfect reporting exemplifies the importance that non-state agents have within the arena of arms transfers, while also illustrating that non-state actors go beyond the negotiation of a Treaty and further into the initial phases of the norm cycle, into its implementation. Overall, this and the rest of this chapter have allowed for an understanding of the Arms Trade Treaty but also for the role of other actors, besides state actors, in the norm implementation of the Treaty which will become key across the subsequent case study chapters.

Chapter 5- NGOs role in the ATT fulfilment: Control Arms and ATT Monitor Reports

Introduction

Often, the words civil society and non-governmental organisation are used interchangeably, academically and otherwise.⁴⁹ This is perhaps the result of NGOs seen as key pieces in the so called global civil society analysed in Chapter 3 (Boli & Thomas, 1999; Chandler, 2004; Kaldor, 2003; Keane, 2003; Meyer, Boli, Thomas, & Ramirez, 1997 to mention a few). The meaning of civil society has changed dramatically through time. For Hobbes and Locke, civil society was not on a different realm from that of the state. Hegel's view became closer to the modern conception of the term; however, the market was seen as part of it. Based on Marx's perspective, Antonio Gramsci came up with a meaning where civil society was a vehicle of the bourgeoisie. Contemporary conceptions of civil society are "less as they have appeared in the history of political thought and more as they might contribute to a theory of contemporary globalization and governance" (Scholte, 2002, p.283). Some do not agree upon calling this civil society global, due to its unevenness, and use the term transnational instead (Price, 1998). Mainstream theorists assume civil society/NGOs to be a clear third force, separate from the state (Florini, 2000). Others, interpret it as everything that exists outside of and beyond the reach of the territorial state and other institutions of governance (Keane, 2003, p.9), at times including businesses and even mafias and terrorist groups (Buzan, 2002; Keane, 2003). Other theorists focus on a clear relation of the civil society to the state (Anheier et al., 2005; Shaw, 1994; Stavrianakis, 2013), a historical tie with the emergence of capitalism (Chatterjee, 1990), and a field of power relations (Cox, 1999, p.10). Therefore, the meaning of global civil society or NGO is difficult to pinpoint but what is true is that it is dynamic and non-static. It is "an unfinished project that consists sometimes thick, sometimes thinly stretched networks, pyramids and hub-and-spoke clusters of socio-economic institutions and actors who organise themselves across borders, with the deliberate aim of drawing the world together in new ways; These non-governmental institutions and actors tend to pluralise power and to problematize violence; consequently, their peaceful or 'civil' effects are felt everywhere, here and there, far and wide, to and from local areas, through wider regions, to the planetary level itself" (Keane, 2003, p.8).

In this sense, Control Arms Campaign is an example of an organisation that has changed dynamically and adapted to the environment around it. It is an organisation

⁴⁹ For example, when having a conversation with Amb. Klaus Korhonen and Policy Officer for ATT Sarah Parker, both used civil society and NGO interchangeably when referring to the NGOs that worked alongside the ATT. Academics tend to do so as well and so will this chapter and this thesis.

that served as a norm entrepreneur (Finnemore and Sikkink, 1998) during the negotiation and creation of the norm and has become an implementer of the Treaty, a *norm implementer*. It originally stemmed from the need to advocate a strong Arms Trade Treaty. Once its main objective had been met, it evolved into the dedication of pushing for more states to sign the treaty, of providing assistance to the UN delegations, government officials and civil society organisations in order to facilitate the ratification and effective implementation of the ATT (www.controlarms.org). It has now created the ATT Monitor Yearly Report to aid states into ensuring a strong and consistent application of the Treaty (www.controlarms.org). Control Arms- ATT Monitor's objectives align neatly with seeking a leverage in human rights in the human rights and security relationship. With each yearly report and with the interactions with the state parties of the Treaty, it is slowly constructing and defining its personality in the international scene of arms control. Having a defined position can allow for a larger capacity to inflict change onto other state and non-state actors and onto the Treaty implementation. Conventional arms control has proven harder to control than other topics, like landmines for example, and therefore the impact that the organisation can have could take years before being noticed. Nevertheless, it is in these initial reports and actions that the foundations of where the position will grow to are being set and consequently their analysis and understanding is crucial.

In terms of arms control, the involvement on treaty negotiation and the efforts of these organisations are well-known across states, international organizations, the media and the general public. This chapter, along with this thesis is part of the expanding literature on the lifecycle of a norm and on the role NGOs have on it (Finnemore and Sikkink, 1998; Keck and Sikkink, 1999; Florini, 2000; Price, 1998; Boli and Thomas, 1999b; Price, 2003; Risse et al., 1999; Risse et al., 2013), specifically in arms control. This literature, specially that related to human rights based security treaties, like the ATT and the Mine Ban Treaty has focused on the emergence stage of the norm (Garcia, 2014; Garcia, 2017; Bromley, 2018; Bromley et al., 2012; Spies, 2009; Casey-Maslen et al., 2016; Carneiro, 2007; Sears, 2012; Bolton and James, 2014; Stavrianakis, 2016; Bower, 2016; Bower, 2015; Bower, 2017). The implementation role of NGOs in the second stages of the norm in arms control has been looked at in relation to landmines (Mathur, 2011) or in non-peer reviewed publications (Atwood, 2006; Crowley and Persbo, 2006). This chapter, and the following two as well, will focus on NGOs in the implementation stage of the norm. To do so, it will elucidate the perspectives of independence and dependence of NGOs towards the state, so as to gain a full understanding of their role. It will also keep in mind theoretical views stated in the theory chapters, like the cross-fertilization between constructivism and the English School that allow for the further understanding of norms in connection with the "nature of international social and political life and what constitutes ethical conduct" (Reus-Smit, 2002, p.501).

This chapter will initially focus on defining who is Control Arms, specifically Control Arms- ATT Monitor. Although the main focus of chapter 5 is Control Arms- ATT

Monitor, with the aim of gaining a better perspective for the human rights and security relationship, the state parties of the ATT as a whole will be set against the organisation. The framework of analysis of genealogy linked to constitutive causality, as discussed in chapter 1, will aid in this chapter by bringing the attention towards the social processes, interactions, confluences and accidents that Control Arms-ATT Monitor has as an agent in the international scene (Lebow, 2009). It will also deconstruct with the aim of then constructing the specific human rights and security relationship of this case. A CMV lens will be used to concentrate on what actors do to promote cultures of peace in a global-local manner to therefore focus on moral issues.

Expressly this chapter, will first set a definition of what implementation means compared with verification and monitoring will be set followed by the detailed mechanisms of what Control Arms and ATT Monitor seek to advance in the Treaty fulfilment. Then, there will be a comprehensive explanation as to where Control Arms-ATT Monitor stands in the international scene, specifically what type of NGOs it is and how this influences how it is constructing its current and future actions. The second part of this chapter is dedicated to the main analysis of the nexus of moral and material interests. It will start with defining the organisations identity and the politisation it has reached or not with its actions so far. The figure of *norm implementers* will be introduced and defined as well as their connection with Rawl's original position. Then, the chapter will focus on morality and its relationship to state parties of the ATT to then enter the material interests, in particular financial. It will also introduce and define, *false morality* to focus on morality and aiding in addressing weaknesses of constructivist theory. Finally, once the main exploration is established the particular overlap of the human rights and security relationship of this case will be exposed in order to understand why states give rights whilst controlling the means of violence.

ATT implementation alongside an NGO: Control Arms' ATT Monitor

Although NGOs multilateral power has been slowly increasing since the latest involvement and achievements in the creation of disarmament treaties, states continue to have centre stage. NGOs have demonstrated their effect on these treaties and their diplomatic influence to achieve more robust treaties that protect and raise human rights in the human rights and security relationship. NGOs now need to demonstrate the same but in the implementation of the treaties. This subdivision of this chapter will be dedicated to first, understanding what is actually meant by implementation and its relation to verification and monitoring in the Arms Trade Treaty. Then, onto the more detailed mechanisms that Control Arms on its own and particularly through the ATT Monitor seeks to have indirect control of Treaty practices and direct control over good practices. Finally, this subpart will focus on the type of NGO that Control Arms has become, especially in its new role as vital part of the ATT.

Defining implementation, verification and monitoring

The Vienna Convention on the Law of the Treaties (1969) notes that “the principles of free consent and of good faith and the Article 26, *pacta sunt servanda* rule are universally recognized” and that “every treaty in force is binding upon the parties to it and must be performed by them in good faith” (1969). This signifies that it is universally recognized that agreements must be kept. Most of the member parties of ATT have ratified the Vienna Convention, and are therefore bound by it. This means that the articles that specify distinct actions in the realm of conventional arms trade are to be carried out by ratifying states and by the organs that the treaty created- the Secretariat and the CSPs. The article specifications are, however, open to interpretation in some ways which can leave the strict side of things aside.

According to Article 17 of ATT, the CSP organ is in charge of reviewing implementation, which resembles the functions of a typical CSPs in environmental law (Worster, 2014) and also in previous similar treaties, like the Mine Ban Treaty. It also means that all the member parties have the duty of implementation as a whole and individually. Each state party has an obligation to report to the other states parties via the Secretariat and the CSP is not expressly empowered to consider those reports under article 17; nonetheless, it is safe to say that the CSP must have an implied power to consider such reports in order to discharge its general power to review implementation (Worster, 2014, p.1029). Article 17 has measures for compliance with the treaty where the CSP carries, however CSP may only review generally without necessarily identifying violators (Ibid.). The CSP potentially could name and shame those members who did not complete their reports in duly form. To date CSP, has not done so. This could be because the treaty is in early stages and due to interpretation confusion, reports are not yet being filled in unison. All of this has left a window open for the opportunity of realising a deeper analysis of the yearly reports. This action, done by NGOs specifically by Control Arms through ATT Monitor as the civil society’s implementation of ATT.⁵⁰ Because implementation is specified to be the CSPs task in Article 17, then Control Arms work becomes monitoring and verification. However, verification and monitoring can be both part of implementing, so the terms are sometimes used interchangeably.

According to the UN, verification is “a process in which data is collected, collated and analysed in order to make an informed judgment as to whether a party is complying with its obligations” (UN General Assembly, 1995). Guido Den Dekker has broken down this process into three fundamental stages: fact-finding- establishing the factual

⁵⁰ This is not the first time an NGO has participated in the implementation of a treaty. There are a number of examples of successful formal NGO participation in treaty implementation and verification procedures, particularly in the environmental sector, such as the 1973 Convention on International Trade in Endangered Species and the 1971 Ramsar Convention on Wetlands (Meier and Tenner, 2001) in (Crowley and Persbo, 2006, p.244). And in the case of disarmament, the Landmine and Cluster Munition Monitor.

behaviour of the state-; review- testing the established facts against the rules set out in a Treaty-; and assessment -deciding or estimating the degree of compliance with the rule- ((Den Dekker, 2001) in (Crowley and Persbo, 2006, p.227)). Verification is typically carried out by an international organisation, like the UN, or in the case of the ATT by one of its organs: the ATT Secretariat or the CSPs. In human rights cases, it has been done by other organisations, like Human Rights Watch (HRW) and Amnesty International (AI). HRW and AI verification is recognized widely by the international community. Monitoring can be seen as a wider concept and described as “efforts to detect, identify and measure developments and activities of interest” (Den Dekker 2001 in Ibid., p.229). Sometimes, it forms part of Den Dekker’s first stage of the verification process: fact-finding. According to Crowley and Presbo, monitoring does not need to focus on finding evidence that necessarily must match a legal standard (Ibid.).

These definitions set a somewhat confusing picture for where to set Control Arms’ ATT Monitor report. Because of its name, ATT Monitor, might be confused as just a monitoring activity. Nevertheless, according to the ATT Monitor goals and objectives, ATT Monitor “serves as a trusted source of information ... including tracking implementation measures to embed the Treaty's obligations” (www.armstreatymonitor.org). This is very important because, even though due to its name ATT Monitor might be seen as simply monitoring it actually reviews the facts and information coming out of the yearly reports against the rules of the Treaty, as Den Dekker defines it in the second stage of the verification process. This means that ATT Monitor is a verification mechanism of ATT.⁵¹ ATT Monitor’s predecessor is the Landmine Monitor and was created in 1998 after the Ottawa Convention. These Monitors are completely outside the formal verification system of international agreements on arms control and disarmament. In this sense, Meier and Tanner set three types of NGO interaction with treaty verification activities: official interaction, quasi-official interaction and informal interaction (Meier and Tenner 2001 in Crowley and Persbo 2006). These divisions are not strict, in fact they are fluid and ATT Monitor is proof. ATT Monitor might not be an official interaction, however, although reports are made public by the ATT Secretariat, Control Arms gets the information passed down before time to have the analysis of the reports ready each year.

Methods and mechanism of Control Arms- ATT Monitor Project

ATT Monitor is a resource based on civil society that provides independent analysis and information on the effectiveness of the ATT to support the

⁵¹ It is important to note that the organisation Reaching Critical Will has a yearly publication called ATT Monitor as well. However, this online source is actually monitoring for it detects, identifies and measures development of the CSPs and their previous meetings only. It is therefore a monitoring mechanism of ATT.

implementation of, and accession to the Treaty (www.armstreatymonitor.org).⁵² The staff and editorial members are Control Arms members, who due to the nature of Control Arms belong to different international NGOs or are independent consultants. The international referencing group is comprised by two leading academics on the subject- Dr. Denise Garcia (Northeastern University, USA) and Dr. Owen Greene (University of Bradford, UK) and researchers from Scandinavian and American research centres- SIPRI (Sweden), PRIO (Norway), Norwegian Red Cross and the Stimson Center (USA). Particularly when looking at the list of international references, the country of precedence is clearly Western and belonging to states that have been heavily involved on the development and acceptance of ATT, except for the United States. ATT Monitor was launched in 2015 and financed with support of Austria, Australia, Ireland, Netherlands, Norway and Trinidad and Tobago. It is interesting the involvement of certain countries in the ATT Monitor, specially because of the leverage that resources like this give to human rights in the human rights and security relationship.⁵³

ATT Monitor has as an objective to research and analyse trends and practices that have an impact on the implementation of the Treaty. Its duty is to report on evidence the risks of weapon transfers in order to guide the commitment of Article 11. The reports available today, 2015, 2016, 2017 and 2018, unfortunately evidence a lack of clarity on how state parties should complete the template given as well as somewhat worrying numbers on ATT compliance. For example, the ATT reports from 2015 show discrepancies in filling the template. Some Parties left sections blank without explanation, others did not report data on imports at all- UK and Austria (Control Arms Secretariat, 2015). Because of the different definitions of small arms, reporting on these is varied. According to ATT Monitor, the discrepancies in reporting must not be assumed to be from diversion or fraud but perhaps from the different methods and systems that each country has used in the past to control and report arms transfer ((PRIO), 2017). The reports from 2016 show that only 41% of the States Parties that should have reported on their exports and imports by June 7, 2017 did so (Control Arms Secretariat, 2016). The 2017 report, saw an improvement in universalization of the treaty and suggested that coordination of regional sub-bodies aided in this. Focusing on transparency, this report found that the official sources of information of the Treaty, the annual reports, were “disappointing in quantity and quality”, exemplified many “discrepancies” and few cases of best practice (Control Arms Secretariat, 2017, p.16). In 2018, the report found that although initial reports had now been submitted with a 73% compliance rate, no state parties had provided an updated version of this report; “this lack of updated information could stymie efforts towards comprehensive treaty implementation and undermine the value of

⁵² Reaching Critical Will has a publication that functions only during CSPs called ATT Monitor as well. This publication has been used as reference in Chapter 4.

⁵³ This will be further understood as the chapter continues as well as in chapter 7 with the case study of Norway.

transparency in national control systems” (Control Arms Secretariat, 2018, p.13). Meanwhile, after 4 years of Treaty, the annual reports tally is at 45% for 2018 (Ibid.).

What these reports demonstrate is the need for an actor, such as Control Arms and the other organisations involved, to continue working to achieve full compliance and implementation of the Treaty. These initial reports serve three ends: they offer self-assessment of implementation and compliance; they highlight best practices and lessons learned; and they identify gaps and assistance needs for effective implementation ((PRIO), n.d., p.56). The reports also demonstrate that NGOs job to ensure the effectiveness of ATT will be a task requiring patience and hard work. In the case of ATT Monitor Project, comprised by Peace Research Institute Oslo (PRIO) and other organisations, also to ensure and motivate compliance (Erickson, 2015). The ATT Secretariat and the annual meetings of state parties have the duty to support the implementation of the Treaty, but no official mechanism is fully dedicated to monitoring this implementation. Through the annual compilation report, ATT Monitor is serving the function of a much needed enforcement mechanism (Hafner-Burton and Tsutsui, 2005, p.1402). States are in direct control of ATT practices, but NGOs are in indirect control of practices and direct control of good-practice. This action, allows for human rights to maintain and hope to win leverage against security in the human rights and security relationship. This, of course, is a matter of endurance and obstacle dribbling across diverse circumstances of the international politics.

Where does Control Arms- ATT Monitor stand

Part of an NGOs power comes from how they can pressure decision makers through their engagement with the public. To do so, NGOs activity ranges further away from only aid in multilateral diplomacy. Sometimes the results of these activities can be felt indirectly, however, they are important contributions in shaping disarmament treaties and their objectives. NGOs tend to focus other activities besides policy development, like: research, advocacy, public awareness and education and implementation (Batchelor, 2002, p.37). There are many other more specific areas in which NGOs contribute, these include: independent monitoring of state behaviour in relation to global norms and agreements; independent reporting on multilateral disarmament processes; studies on dimensions of particular weapons issues and their actual or potential impacts; building alliances for multi-actor engagement towards action appropriate to what is required at the multilateral level; and actively assisting the decay of ineffective multilateral processes while helping to put in place, even at the informal level, new, more appropriate mechanisms (Atwood, 2006, pp.49–50). In fact, this so called new humanitarianism within arms control and disarmament topics has had diverse contributions since the early 2000s particularly in terms of banning landmines (Borrie, 2009; Cameron et al., 1998; Cooper, 2006; Fox, 2001; Mathur, 2011; Williams et al., 2008; Bower, 2017; Bower, 2015; Bower, 2016). In the case of ATT, the NGOs that contribute in diverse ways post- 2013 are: Reaching Critical Will, ATT-BAP, Control Arms- ATT Monitor, Small Arms Survey, Arms Transfer Dialogue,

SIPRI, CAAT, Saferworld- Expert Group on ATT Implementation (EGAI), Forum on Arms Trade, and Centre for Armed Violence (CAVR). The type and level of contribution varies. Some work specifically and solely on ATT, whilst some have other disarmament objectives in mind. Some offer ongoing monitoring of ATT, some focus on CSPs while others simply offer a directory of ATT experts.

Control Arms through ATT Monitor seeks to influence positive change onto the implementation of the ATT and to fulfil actions that were not directly given to any state parties by the actual Treaty. Control Arms started as an organisation committed to the need to advocate a strong Arms Trade Treaty. Guided and supported by larger NGOs and conformed by ten steering members and one hundred and eight organisations worldwide, it achieved the Treaty in 2013. Today, it has evolved to become a crucial actor in the advancement of the Treaty and of the global control of arms trade, in general. The need for evolution stems from the nature of global civil society as being non-static and dynamic, it is an unfinished project that keeps changing (Keane, 2003). David Atwood, in a UNIDIR document, states that this evolution happens because “NGOs need to accept the multilateral world in order to succeed”(Atwood, 2006, p.33). NGOs are fluid and, like Control Arms, are carving their own role and have been developing into specialised beings that directly or indirectly, consciously or unconsciously are affecting the human rights and security relationship.

Theoretically, in IR, academic studies that bloomed in the late 90s and early 2000s that focused on transnational advocacy (Bieler et al., 2004; Burgerman, 2001; Clark, 2001; Florini, 2000; Keck and Sikkink, 1998; Khagram et al., 2002; Matthew, 1999; Price, 1998; Price, 2003) where based on the premise that these non-state actors were completely independent from the state. Others have focused on the Gramscian understanding of civil society, where there is no independence from the state or from corporations. Anna Stavrianakis’s work (2011; 2012; 2013) conceptualises a study of NGOs and global civil society involved in the arms trade from the point of view of Marxist/Gramscian non-independence from state actors. For Stavrianakis’s NGOs agency is both constrained and enabled by historical and structural grounding while contributing to hegemonic social formations (Stavrianakis, 2011). Therefore, NGOs and other similar non-state actors are not independent from the state. With this view in mind, in a way, it could be said that previous profound studies on NGO activity and success as completely different actors from the state (Garcia, 2006; Grillot et al., 2006; Krause, 2001; Krause, 2002) are obsolete. For example, if it is assumed that NGOs are not an entirely separate actor from the state, then all their effort to be a third force (Florini, 2000) has to be set aside. This is because these studies privilege the agency role of these actors (Price, 2003), particularly as norm entrepreneurs whilst setting agendas in the creation of norms. However, the Gramscian view does not mean that NGOs are powerless, on the contrary, they “exercise considerable power in promoting a liberal conflict-security-development agenda that serves to shield the wider world military order from scrutiny while reproducing the South as a site of intervention” (Stavrianakis, 2011, p.232).

Stavrianakis makes a strong and well-argued case with examples of recent NGO activity, particularly from the UK, to demonstrate the dependency of non-state actors to state actors, and vice versa. She has diverse examples of how there is connection and sometimes repetition amongst personnel from Dfid (Department for International Development, UK) and Saferworld or Oxfam (both agencies deeply involved in ATT) (Stavrianakis, 2011, pp.228–231). She conceptualizes NGOs involved in the arms trade with Jan Art Scholte's (2002) notion of reformist or transformative.⁵⁴ "Reformists are those civil society entities that wish to correct what they see as flaws in existing regimes while leaving underlying social structures intact" (Scholte, 2002, p.284). In the case of the arms trade, Oxfam, Saferworld and AI, accept the legitimacy of the arms trade and seeks tighter regulation within existing parameters (Stavrianakis, 2013, p.33). "Transformists are those civil society associations that aim for a comprehensive change of the social order (whether in a progressive or a reactionary fashion); these parts of civil society are frequently termed "social movements", they include anarchists, "dark green" environmentalists, fascists, radical feminists, pacifists, and religious revivalists, with their respective implacable oppositions to the state, industrialism, liberal values, patriarchy, militarism, and secularism" (Scholte, 2002, p.284). For the NGOs concerned with arms trade, CAAT and BASIC have transformist approaches (Stavrianakis, 2013). For example, CAAT's goal is the reduction and ultimate abolition of the international arms trade, because of the role it has in undermining human rights, security and economic development (Ibid., p.37).⁵⁵ Interestingly, reformists organisations tend have direct support from states (like Oxfam and Saferworld), whilst transformative ones are more independent. NGOs can also be divided by their strategies as: insider or outsiders (Stavrianakis, 2013 Chapter 3).⁵⁶ Insiders are those NGOs whose argument is closer to the received understanding of an issue, the further it is from it refers to outsiders (Ibid., p.63). Reformists tend to be insiders, while transformist outsiders. AI, Oxfam, Saferworld, and IANSA are reformist with a mix between insider and outsider; and BASIC and CAAT are transformist with insider and outsider strategies (Ibid., p. 92).

All of these designations are heuristic and are to be seen in a case by case scenario. Also because organisations are hybrids and as they evolve their objectives change. For example, Anna Stavrianakis, in her Gramscian understanding of NGOs and based on

⁵⁴ Scholte actually speaks of civil society organizations being: conformist, reformist or transformist (Scholte, 2002, p.284). Stavrianakis dismisses conformists.

⁵⁵ CAAT is the main NGO involved in the case of the UK on Chapter 6 and will be delved upon then.

⁵⁶ This concept is not new. It was first identified by E.E. Schattschneider in relation to pressure groups (Schattschneider, 1935) but became influential when Wyn Grant developed and created proposition of an insider/outsider model (Grant, 1978). It has been used by internationalist before to explain pressure groups success or lack thereof in multilevel governance particularly in Latin America (Sikkink, 2005). Stavrianakis bases her definitions on Grant (1978).

Scholte (2002), has defined Control Arms as mainly reformist.⁵⁷ However, due to the progression the organisation has had after the signing of ATT, this thesis describes Control Arms as reformist with hints of transformative. Reformists, because it stays within the framework of accepting the legitimacy of the arms trade and seeking tighter regulations within the existing parameters (Stavrianakis, 2013, p.33). Its activities directed towards aiming to universalization of ATT are definitely reformative. ATT Monitor, although it seeks to somehow confront the states by analysing the annual reports it remains reformist. This is because these tasks do not really challenge the status quo. This does not mean that these actions are not effective and/or are meaningless. In fact, due to their relative closeness to the state actors it is actually easier for them to push for change, even if the change might be slow and non-radical. These activities are crucial to the realisation of a better ATT and also towards gaining leverage over security in the human rights and security relationship.

Control Arms role in the CSPs is mostly reformative, even if the statements delivered by Anna Macdonald, its Director, push for a somewhat radical transformation of states perspectives.⁵⁸ Nevertheless, what is behind this radicalness are actually the already set requirements of the Treaty. ATT Monitor is reformist in the sense that it leaves the underlying structures of society intact. However, it has a powerful side to it. It is perhaps too early to see it, but the gap that it is filling in the transparency claim of the ATT is evident. The analysis published is done by a global network of experts that have different backgrounds but that seek to communicate how the member state reports can improve. Evidence of successful very similar publications is the Landmine Monitor, created almost twenty years ago.⁵⁹ However, in comparison to the Landmine

⁵⁷ Stavrianakis dedicates many pages to Control Arms and to the organisations that form part of it, particularly in its position towards the creation of ATT. For more see: (Stavrianakis, 2013, pp.34, 37, 56, 78–80). Her definition is based upon Control Arms's position in the negotiation and creation of the ATT, not on the implementation side like the ATT Monitor.

⁵⁸ In the latest statement by Control Arms last September at the CSP3, Anna Macdonald reminds about the responsibility and the power to ensure that states do not supply arms that risk being used to commit or facilitate violations of international human rights and humanitarian law (Macdonald, 12 September 2017). She speaks of this specially within the context of the Yemen case. Some of the other statements delivered by the rest of the Control Arms Coalition organisations were also based on a call for action for the Yemen case. All staying within the boundaries of the status quo but pushing for states to remember the objective of ATT: to reduce human suffering. The Caribbean Coalition for Development & Reduction of Armed Violence (CDRAV) did do some naming and shaming of states that have not made their reports public (Mutota, 13 September 2017), even if the Treaty entitles them to make a decision on it. Even through brief moments of extremism, the Control Arms Organisations, continue pushing for a full implementation of ATT.

⁵⁹ The Landmine Monitor has had a crucial role in promoting and monitoring compliance of the Mine Ban Treaty (Wareham, 2006). The Landmine Monitor has helped to ensure the timely submission of reports required by the Mine Ban Treaty, "the number of states parties submitting their initial reports increased dramatically from 63% in 2001 to an impressive 96% by October 2005" and "states parties' reporting appears to have become more detailed since 1999" (Ibid., p. 87). It has also engaged with non- state parties and with armed non-state actors which has encouraged transparency and further

Monitor, ATT Monitor's effect has more challenges to meet. Landmines tend to be remnants of war, whilst the conventional arms that the arms trade is seeking to control are used for war and are therefore a delicate subject for states. This clearly related to the tension between human rights and security that has been discussed throughout this thesis. Therefore, the actual result of Control Arms- ATT Monitor's intention is yet to be fully proven.

The transformative shade of Control Arms has also to do with Control Arms itself, perhaps without apparent relation to the ATT Monitor Reports. The Control Arms Coalition joined CAAT, Oxfam, AI and other organisations in challenging the UK government on the case of the sales of arms to the Saudi Coalition. This is the main focus of the next chapter and will be delved upon then. However, it can be understood that CAAT functioned as the key transformative NGO pushing for change. Even though, this did not occur under strict Scholte terms (2002), it did happen in cooperation with AI, Oxfam and CAAT. CAAT, as was seen before is considered by Stavrianakis (2013) a transformative organisation. Working alongside CAAT and taking the UK to court in 2017 on selling arms to Saudi Arabia despite being a signatory of ATT, is a clear case of seeking a comprehensive change of the social order. Nevertheless, ATT Monitor has definite shades of transformative in its actions, particularly when discussing Yemen in the 2016 Report and other case studies within the framework of its website. This will become more apparent further down.

Control Arms actions, whether reformatory or slightly transformative, demonstrate the complexity in defining an organisation's vision and how this vision is dynamic because it actually changes through time. What is definite is that, Control Arms, through its involvement in the CSPs, through the collated analysis of a diverse set of researchers of ATT Monitor, and through its involvement in seeking to hold the UK accountable for the arms trade to Saudi Arabia, is progressing in pushing for a well implemented ATT and therefore for a reduction in human suffering. This is also an example of a non-state actor, that is partially dependent on state actor funding, exerting force against that same state actor. It demonstrates non-state actors seeking a role in the power balance that states dominate. It also shows the evolution of the relationship between human rights and security and how non-state actors play a decisive role in it. This also has to do with who is behind that non-state actor, who is financing Control Arms and what are the interests that the organisation has. This will be further discussed further below when analysing NGO funding further below.

Moral over material interests constructed by survival

involvement (Ibid., pp. 99-102). With this the Landmine Monitor has become "a model for how an active, coordinated and engaged civil society can be integral to the negotiation, implementation and monitoring of an international agreement" (Ibid., p. 104) and a definite role model for ATT Monitor.

The nexus of moral and material interests in this case becomes peculiar when understanding that the main actor in it is an NGO that has already carved its role in the negotiation of the Treaty and is seeking to carve its implementation identity. This is being constructed with every CSP, every ATT Monitor publication and basically every step that Control Arms takes within the realms of ATT implementation. What their implementation identity looks like has been outlined in the previous part of this chapter, what this second part of this chapter wants to display is the complexity that comes with it. It wants to explicate the causal chains, social processes, interactions and confluences that the interests of both the NGO and the member states have. In other words, the interactions between actors and the structure and between actors and other actors; the constitutive causality of the case. To do so firstly there will be an explanation of how identity and the politization or a-politization of Control Arms-ATT Monitor is. Secondly, the moral interests will be put in direct opposition of those of the states. This because, after all and as has been said by Amb. Korhonen in the interview, ATT is made by states and for states. Finally, the details of Control Arms' finances related to its material need for survival will elucidate how certain states also survive from supporting organisations like Control Arms and Control Arms-ATT Monitor.

Identity and the politization or lack thereof of a *norm implementer* NGO

Traditionally, in IR theory, what gives state actors their identity is "largely constituted by sovereignty and it situates nation-states in a position of authority and legitimacy against other actors" (Mathur, 2011, p.179).⁶⁰ Identifying non-state actor's identity becomes problematic because supposedly only states can have an effect over sovereignty. Whether anything or anyone limits state sovereignty is still an ongoing debate, however, human rights norms have been in fact considered as limiting sovereignty (Steiner et al., 2008). This results interesting when focusing on what NGOs, like Control Arms-ATT Monitor, are trying to achieve in the name of human rights based norms like the ATT. The actual power that NGOs have to achieve change the structure has been repeatedly proved with the negotiation of human rights based norms. There is no doubt that they can influence these topics, even if there is still a need to latch on to championing states, like in the case of the ATT negotiation and the UK. The power of NGOs to influence in the norm implementation of these types of norms and therefore push for a greater arms control and a change in the already settled structure around it, is more difficult to prove.

⁶⁰ Sovereignty, in International Relations, became centre stage after the end of the Cold War. Before it was not really considered since realists and liberals took the international state system for granted. However, some had started considering other actors in the state-centric system (Keohane and Nye, 1972). Hedley Bull (1977) work opened up contingencies of sovereignty which led to some predicting its decline (Strange, 1998), while others drew the structural change international politics where suffering (Ruggie, 2002). Constructivists observed the normative content of sovereignty and how these contour the international arena (Wendt, 1992). While realists showed sovereignty as "organised hypocrisy" utilised by states at their convenience (Krasner, 1999).

An NGOs identity is directly related and defined by the motivation that each organisation has and the interests it wishes to fulfil. Scholarly, the identity of disarmament and arms control NGOs has been largely linked to their role in norm construction. Actually, their identity has not been precisely defined academically but as seen throughout this Chapter, their role on the creation and negotiation of the Mine Ban Treaty, the Cluster Munitions Treaty and the Arms Trade Treaty has been widely studied. Their identity around norm implementation is being defined by their current and future collaborations in the process of the fulfilment of ATT.

Organizations that are seen as reformative, as described above, then are seen as having a “non-threatening identity” (Mathur, 2011). It is known that humanitarian actors, such as Control Arms, believe that by positioning themselves securely within this humanitarian space, they can “issue appeals, suggest incremental measures and critique state behaviour that might foster a momentum for more comprehensive measures in the future” (Mathur, 2011, pp. 180–181). Control Arms is in most senses non-threatening and therefore this may be the reason for its success in advancing into more control over implementation in the ATT. It is important to remember that the ATT, despite the many non-state organisations involved in its well-being as seen in each CSP, is a treaty for the state parties as was said by Amb. Korhonen in chapter 4 (Korhonen, 2018). The state parties are the leaders and the ones who hold the last word. Despite this, Control Arms seems to have found the identity of assisting, legally assisting. In fact, as it is stated on its webpage: “it supports a robust well implemented ATT by providing legal assistance to UN delegations, government officials and civil society organizations in order to facilitate the ratification and effective implementation of the ATT” (Control Arms). Through ATT Monitor, it seeks to have the identity of promoting a better use of the formal implementation tasks put in place by the Treaty. All looking to have an impact on the effectiveness of ATT fulfilment. Because of the evolving nature of Control Arms, and ATT Monitor project, its identity is ever-changing and therefore difficult to fully pinpoint. It is clear the direction that the organisation wants to give to their identity, in terms of implementation, as just stated. Nevertheless, in order for it to truly define itself as a separate entity from the state and from ATT formal implementation, it will have to continue its mission. Nevertheless, this means that Control Arms through ATT Monitor is the *norm implementer* of this case and has to continue constructing such role in order to continue its interaction in norm implementation dynamics. Control Arms and Control Arms- ATT Monitor’s identity and the political or a-political role it plays in the ATT is better defined by the nexus of moral and material interests it carries and by how these relate to the state parties, to the future of the organisation and of course to the human rights and security relationship, as will be seen below.

Norm implementers, beyond organisations that have evolved from norm entrepreneurship, are agents that operate in order to gain implementation of the norm. In the case of Control Arms-ATT Monitor, these actions occur in a

straightforward fashion but they can also be indirect as will be seen in the following chapters. This is because some organisations defend the precepts of the Arms Trade Treaty coupled with other instruments of IHL. What is particular about these agents is that, like the agents defined in Rawls' original position (Rawls, 1971) described in chapter 2. *Norm implementers* are free, mutually disinterested and rational, therefore they are fair in their actions. Through their actions as norm implementers they seek to limit the traditional power of sovereignty, therefore the traditional powers of the state. The actual freedom and disinterest of *norm implementers* is not necessarily entirely true. For example, below the interests of Control Arms-ATT Monitor will be presented and their absolute freedom might be subordinated to financial survival. This freedom will also be confirmed or questioned in chapter 6 and 7 with the organisations presented.

Morality in direct opposition to the state or *false morality*?

Control Arms-ATT Monitor is not the only actor seeking the fulfilment of the ATT, it faces over one hundred state parties in charge of directing the other implementation sources. A great majority of member parties are actually on Control Arms' side, because in each CSP they engage on pushing for either greater transparency, universalisation, better reporting, etc. However, there are other state parties that can seem on Control Arms' side for the most part but have interests domestically and internationally that guide them towards directly or indirectly choosing to slow down its progress in the full implementation of the Treaty. Of course these actions do not happen in broad daylight, in fact they probably do not even happen consciously. They are hidden behind comments, actions, and even in-actions during, before or after CSPs. They might have happened years, decades or centuries ago but continue to influence the state parties' actions today. Nevertheless, at least in paper, Control Arms seeks to respond to the deficits that the Treaty cannot accomplish and is allowed to do so openly by states.

In this context, Control Arms has defined, whether implicitly or explicitly, its moral and material interests that define its relationship with the member parties but also with the human rights and security relationship of this case in particular. In moral terms, Control Arms' motivation is clear: "to control licit trade in order to impact the uncontrolled proliferation of arms and ammunition that fuel conflict, increase human rights abuses and exacerbate poverty" (Control Arms). Overall, morally it seeks the improved regulation of the arms trade as an underminer of human rights supporting the human rights side of the human rights and security relationship.⁶¹ Ensuring the universalization and effective implementation of the Arms Trade Treaty, is part of this

⁶¹ This is one of the differences between two of the non-state actors presented in this thesis. Control Arms as a reformist, focuses on the improvement of the arms trade as it states on its website: "the Control Arms Coalition works to end the flow of arms and ammunition that fuel conflict, poverty and human rights abuses" (Control Arms). This is different from CAAT, as will be seen in chapter 6, that as a transformist wants to abolish the international trade of arms.

and through the ATT Monitor Project they serve as a trusted source of information to advance universalisation and implementation. All in all, what Control Arms' ATT Monitor project seeks to find political effectiveness to achieve its moral commitment.

Theoretically, in terms of negotiation and creation of human rights instruments, Keck and Sikkink point out to how transnational advocacy networks achieve political effectiveness through leverage that can be material or moral. "Material leverage normally takes the form of some kind of issue-linkage, normally involving money or goods- but potentially also including votes in international organizations, prestigious offices, or other benefits-; moral leverage involves what some commentators have called the 'mobilisation of shame', where the behaviour of target actors is held up to the bright light of international scrutiny" (Keck and Sikkink, 1999, p.97). Morality is then defined somewhat by what the general public wants, because Control Arms, as an organisations of civil society, is acting as a representative of civil society's moral needs. In fact, "civil society's moral authority depends on the perception that it is promoting worthy causes in opposition to concentrations of power"(Florini, 2000, p.233). In the case of ATT Monitor, the opposition to concentrations of power are the over a hundred member states that represent the actual Treaty.

The ATT Monitor reports have the power to morally shame those states or even all the member states as a whole for not following rules or for not advancing with the Treaty stipulations despite the excuse of it being too early to achieve full compliance. In some sense, the ATT Monitor reports of the last few years have done so. The report does, in fact, mention the areas of opportunity after an analysis of the mechanisms of the Treaty that have been successful or unsuccessful. For example, in the ATT Monitor report of 2018, there is a section dedicated to the analysis of the preparatory meetings for the CSP and the 2017 CSP. There is a detailed description of which states are doing what, which in a sense speaks positively of the involvement of such states. It is interesting to see that the states usually involved in these types of actions, like being chairs of a specific working group on transparency or universalisation, are the same names that are heard in other ATT matters and perhaps even in other similar treaties and procedures across the international arena. Names like, Finland, Switzerland, Belgium and Mexico are heard of often. These states represent progressive states usually. States that have are seeking or magnifying their moral role in the international scene. States that most likely have little involvement in the production of weapons or that even if they do they have a peaceful reputation to abide by. The better understanding of these types of states will be better understood in Chapter 7.

The ATT Monitor Reports are carefully worded to make it seem like there is a lack of "x" or "y", whilst praising the progress that states are making. It is almost like a psychotherapist would speak to a delicate patient. Perhaps this is the way to go to actually encourage states to progress without an undivided pressure and through a softer focus. This is also a reflection of the reformative nature of Control Arms, in

particular through ATT Monitor Reports. If there is no real pressure made towards pushing for full implementation or full compliance can ATT Monitor be considered as a completely opposing and separate entity to the state parties? Is the ATT Monitor's morality in accordance with its moral compass or simply an arm of the state actors? In this sense, their role can be seen more in a sense of guidance as opposed to naming and shaming, but then is this role effective? Does this role leave the reformatory personality without touching upon the transformative side, or does it enter at least slightly into the transformative?

Morally, the case of Yemen brings an example of a matter that needs to be resolved in a less passive way, given the urgency of the matter. Saudi Arabia, through the large number of arms exported from ATT members, and signatories, is continuing the violations of human rights in the Yemen area. The ATT Monitor Reports have tackled this throughout the years. The progression of the reporting goes as follows. The 2015 ATT Monitor Report only mentioned Yemen once in a list of countries reporting or not to UNROCA which was in the appendix. The Yemen situation had not yet exploded in the media, and the 2015 report reflects this. The 2016 ATT Monitor Report is the most focused on Yemen. The word is mentioned 50 times throughout the report which includes two special explanatory boxes on "dealing in double standards" and on the "Yemen Risk Profile" (Control Arms Secretariat, 2016) as well as notes and references of articles by other NGOs and by Control Arms itself. There is talk of examples of civil society organizations' activity in the attempt to hold governments accountable on their obligations with the ATT. This in particular on organisations in the Netherlands, the UK and Italy that through local pressure managed to get the vote passed in the European Parliament imposing an embargo on Saudi Arabia. Interestingly there is the shaming of Saudi Arabia as an importer signatory state upon accepting these arms exports. However, there is no direct shaming of the state parties that have failed to stop the arms exports to Saudi Arabia or even of signatories, like the United States, that continue to export large amounts of weapons. This does not mean that the other parts of the report fail to make the involved member states uncomfortable, guilty or morally obliged to change. In fact, the member states as a group are shamed for not discussing enough the topic in the CSP meeting of that year. The ATT Monitor Report, although the focus of this chapter, is not the only publication by Control Arms within the framework of the ATT Monitor. There are also particular case studies on countries, specific urgent topics and other interesting matters. In 2016, there is a particular case study on Yemen which is much quoted in the 2016 ATT Monitor Report.

The following ATT Monitor reports of 2017 and 2018 mention the word Yemen 19 and 25 times respectively. In 2017, there is a special box on the "Arms sales to Saudi Arabia: United Kingdom Judicial Review or Arms Export Practice" (Control Arms Secretariat, 2017).⁶² This box is the description of the situation and the quoting of other articles from AI and CAAT. The box does give a sense of shaming the UK and of

⁶² The explanation of the actual case will be the focus of the next chapter.

pointing out how this situation, by a state party, affects the overall functioning and effectivity of the Arms Trade Treaty. The 2018 ATT Monitor Report mentions how state parties: Norway, Germany and Belgium have halted arms trade to Saudi Arabia, even if previous agreed contracts are still untouched. There is mention that other exports have not been dealt with, but no direct mention towards the UK, for example.

Overall, the trend shows a definite surge on the topic of Yemen in 2016 with a slight decline in the last couple of years. It reflects the characteristics of a reformative organisation with definite hints of transformative. The transformative sense can be appreciated particularly in the 2016, 2017 and 2018 Report, in the themes of the boxes and on the dedication of a specific case study of the country. However, there is still somehow a sense of using the, an indirect type of shaming, which brings a sense of a reformative type of NGO. Why is there no further direct mention of the UK not halting arms in the 2018 report? Or is it subliminal? Why did the focus on Yemen go down in the last two years? Obviously there are other urgent matters in the Treaty mechanisms, like reporting for example, which make it difficult to concentrate on the Yemen topic in all reports. However, it is interesting to see that once a few state parties had abided by the rules and reached a major step into stopping exports to Saudi Arabia, the shaming somehow calmed down. It is key to mention that according to 2017-2018 SIPRI data Saudi Arabia bought 84% of weapon imports from the US and only 6% from the UK (SIPRI, 2018). The US has definitely a much significant share of the market, however the UK's parts market end up in US weapons. Also, the human component of the UK's deals with SA, although to date unquantifiable are a large part of the importance of the UK case.⁶³ This could be the reason as to why the ATT Monitor Report lowered its interest in the UK.

The answer as to why countries, like Norway, Germany and Belgium, progressed into stopping new exports that fuelled the Yemen Crisis, is complex and due to several international and domestic reasons. It could be seen how after the 2016 ATT Report, these member countries decided to stop. Does this mean that Control Arms- ATT Monitor's reporting had anything to do with it? In some sense, yes when taking into consideration that this was not the sole reason for the halting of the arms exports, because as will be seen in chapter 7 there are many other domestic and even within the government forces implicated. Not to mention, decades of a constructed identity of each of these states. It can be appreciated that Control Arms' combination of direct and indirect methodology of shaming has had an impact, somehow. Does this mean that a mostly reformative NGO has a greater chance of success, as Stavrianakis (Stavrianakis, 2013) states? In the particular sense yes, because it is this relative closeness to the state parties that allows the ATT Monitor Reports to excerpt a certain amount of pressure upon states. In the general sense no, because overall the Treaty is not fully implemented and exports to violating states are still occurring, even by signatories and state parties. Despite this, there is an advancement in terms of the

⁶³ This will be explained in chapter 6.

human rights and security relationship, even if minor. Nevertheless, this minor advancement reflects the hypothesis of this thesis, were states give rights by allowing Control Arms to manage through the ATT Monitor Reports but the means of violence continue to be controlled.

Moreover, and in line with a CMV lens mentioned in chapter 1, does the direct-indirect type of shaming mechanism that Control Arms uses does justice to its moral fibre? For its morality to be considered that of a different entity than that of the state, it has to be in opposition to it, as mentioned above. The morality in this case is not necessarily fully in opposition to the states. This because of the lack of continuing to or lack of starting to shame certain violating state parties and signatories. It cannot be possible that Saudi Arabia is shamed as an importing signatory, but the United States as an exporting signatory is not. It cannot be possible that the UK is almost indirectly shamed in one report, but is no longer shamed in the following ones. This could be explained by the share of sales to SA from the UK actually went down from 10% to 2% in the 2017-2018 period, according to SIPRI data (SIPRI, 2018). However, there is still a sense of lack of continuity, despite the understandable focus on other urgent topics of the Treaty. It gives the sense of a commitment towards the moral interests of the organization but perhaps not fully. This is not to say that Control Arms is fully a-moral or as mentioned in previous chapters, *false moral*.

False morality stands for morality that aims to be fully based on natural law but is associated in diverse levels to other non-moral and material interests. *False morality*, implies the use of a moral interests in the name of a further non-moral one, or simply moral interests used in a falsely moral way. Furthermore, *false morality* is also a morality based on Mill's consequentialism, as seen in chapter 2. This is because the use of morality, without it being naturally moral or ethical leads to it being used as an ends to a mean, as a cloak for interests, therefore as being used falsely. This type of morality is in opposition to Kant, who saw the morality of an action as deriving from the action itself and not from the consequences it produces.

The case of Control Arms- ATT Monitor Report is not fully *false moral*, but flirting with entering the realm. Therefore, it is *neighbouring false morality*, because as the phrase says it, the organisation's actions claim to be moral but are very close to being *falsely moral*. This is mainly due because its morality seems to be in accordance with its actual moral statements in the majority of its actions, although there is a lack of direct opposition to the state as mentioned above. Morality is also not fully aligned with what is intended, not fully aligned with the opposing state actors, and not fully aligned with the human rights side of the human rights and security relationship, as will be further seen below. This morally aligned analysis is due to the CMV lens this thesis is using and as a result it addresses weaknesses in constructivist theory. It is important to mention that *neighbouring false morality* has also to do with Control Arms- ATT Monitor's material interests and how maybe the not fully moral interests and actions

presented here are connected with the organisations material need for survival as will be delved with subsequently.

The material need for survival of NGOs fed by certain states

In a globalized world, NGOs need material resources to survive, in particular financial resources. They usually pursue donations from more than one source, either from: “individuals- donating money and time, states- providing grants, contracts or tax concessions, multilateral agencies, bilateral aid programmes, foundations- state, private and corporate-, religious organisations and trade unions” (Pinter, 2001, p.198). Also, NGOs have evolved to becoming “subcontractors of governments” in certain areas, this is “increasingly channelling funds for service provision, development projects and humanitarian relief” (Florini, 2000, p.213). This has meant that number of foundational sources has grown extensively in the last decades which has been one of the reasons of the recent explosion in the number of NGOs worldwide. Kim Reimann (2006) argues that this is due to the globalization of political structures, institutions, and Western democratic values (Reimann, 2006, p.46). She estimates that this has led to the universe of NGO sponsors multiplying, from the exponential growth of UN based funding to regional organisation support, like the European Union. This has developed parallel to the evolution of the international system of governance as “a larger, more complex and inclusive set of organisations, regimes and gatherings where there is greater political access and participation in policy-making, implementation, and collaborative efforts” (Ibid., p. 55). Also, coupled with the normative progression that constructivists refer to and that has been deeply dealt with in the theory part of this thesis.

Most of the rest of the literature on funding NGOs is focused on international development studies and on the dysfunctions that survival for funding provokes (Cooley and Ron, 2002; Duffield, 1997; Edwards and Hulme, 1996; Fruttero and Gauri, 2005; Gauri and Fruttero, 2003; Molina-Gallart, 2014). Access to secure and stable funding allows NGOs to ensure continuation of their tasks, although achieving it is not easy. Therefore, many large NGOs or International NGOs (INGOs)⁶⁴ seek partnership with funders to ensure this. Amnesty International, for example, does not have funding from states, in order fully keep its credibility as counter actor against states. Other organisations, like Oxfam, clearly receive funds from DfiD and continue to receive them annually. Volker Heins (2008), has described NGOs as “benign parasites”. This is because NGOs do not operate in a distinct sphere outside the state, they work within them. He claims that “global civil society theorists, like the ones mentioned in the first part of this chapter, have misread the independence of NGOs” (Heins, 2008, p.41). Also, that NGOs may think as themselves as harbingers of a “post-sovereign” global civil society but this is at best an illusion (Ibid., p.159). NGOs actually

⁶⁴ INGOs does not necessarily refer to NGOs with representation in almost every country, but to NGOs at least a diverse set of offices and worldwide reputation.

seek to “infect” and thereby change the behaviour of their hosts without harming them; they are independent in that they choose their own programmes and targets, but need a powerful agent to support them (Ibid., p.2). They slip information and legitimacy to states in exchange for reputation, funds and social contacts (Ibid., p. 159). This goes hand in hand with what reformative NGOs, like Control Arms, seek to achieve. Even more so, with what was discussed in the previous part, were Control Arms is seeking to infect state parties with the itch to fully comply with the ATT, even if the illness is taking a long time to develop.

Not all states are willing to be hosts. Some do so in an indirect manner. In the case of Control Arms, due to its nature of coalition between many international, national and local organisations it is difficult to pin point where their funds are coming from and how they are divided.⁶⁵ Control Arms’ funding is separated from funding allocated to the ATT Monitor Project. It is interesting to look at both, since despite ATT Monitor being the major focus of this chapter, Control Arms is the pilot as well as the organisation that participates and exposes information every year at the CSP meetings. First of all, Control Arms’ website appears to be out of date, because many of the NGOs claiming to be members of the Steering Committee no longer seem to exist, like the Africa Peace Forum from Kenya, or the Asociación para Políticas Públicas (APP) from Argentina. Not to mention that several of the staff members no longer work for Control Arms. There are ten members of the Steering Committee from most continents except Oceania and Asia. Table 1 shows the organisations, foundations, states and private individuals that finance these members. Some of these organisations are also financed by private donations that do not appear in the financing part of their websites. It can be appreciated that governments- in bold- appear in most of the members. The states that participate seem to repeat themselves and are: Sweden, Finland, Norway, Germany, Belgium, Netherlands, Denmark, Ireland and UK. The UK appears with less frequency and only in UK based organisations like Oxfam or Saferworld. The US appears indirectly through USAID, nevertheless this organisation is completely independent from the federal government. Therefore, the US, should not be included in this list of countries. Other sponsors are large organisations that most likely receive state financing. The European Union is also stated as financing the Arias Foundation. So, indirectly other states beside the ones specifically mention are supporting these NGOS. However, it is obvious to see that the names that repeat themselves are classified as being progressive states. Countries that have accepted, consciously or subconsciously, to have “benign parasites” with or within them. Second of all, the financing of the ATT Monitor project, it is clearly stated in the ATT Monitor website. The governments that contribute are: Australia, Finland, Ireland, the Netherlands, Sweden and Switzerland.

⁶⁵ It is also very difficult to contact people in Control Arms, even worst to get them to talk about funding. This is nothing new, for decades scholars have stated the same about other civil society organisations (Florini, 2000, p.228).

All already mentioned in the Control Arms support group, with newly arrived Australia.

Table 1

Control Arms Steering Members Financing		
Member	Country	Finance Sponsorship
Africa Peace Forum	Kenya	Unknown
Arias Foundation for Peace and Human Progress	Costa Rica	InterAmerican Development Bank, Ford Foundation, MacArthur Foundation, European Union, USAID , Hivos Foundation, People in Need, CRUSA, Organización Internacional para las Migraciones, Konrad-Adenauer-Stiftung, CORDAID, UNSCAR, and GOVERNMENTS OF: Sweden, Finland, Switzerland, Netherlands, Germany and Belgium
Asociación para Políticas Públicas (APP)	Argentina	IANSA- supported by funders including the GOVERNMENTS OF: Belgium, Sweden and Norway , as well as the Ford Foundation, Rockefeller Foundation, Compton Foundation, Ploughshares Fund, John D. and Catherine T. MacArthur Foundation, Samuel Rubin Foundation UNICEF, and Christian Aid.
Forum for Environment and Development (ForUM)	Norway	50 member NGO in Norway
Non-Violence International	US	IANSA (see above), Art Condo, Beautiful Trouble, Freedom Flotilla Coalition, Holy Land Trust, Israel Law Resource Center, Political Approach to Coexistence, Waging Nonviolence, Washington Action Group
Oxfam	UK	Flexible plus DfID UK
Parliamentarians for Global Action (PGA)	Netherlands	Several states and foundations. Core are Swedish Development Agency, Danish Ministry of FA, Stewart R Mott Foundation (US)
Permanent Peace Movement	Lebanon	Unknown
Project Ploughshares	Canada	No names given, but 6.2% government grants , 3.9% sponsors, 13.6% non government, 75.5% donations
Saferworld	UK	European Commission, UNSCAR, Irish Aid , Ministry of Foreign Affairs of Finland , Ministry of Foreign Affairs of Denmark , Royal Ministry of Foreign Affairs of the Netherlands , Royal Swedish Ministry of Foreign Affairs, Swedish International Development Agency, Swiss Agency for Development and Cooperation, UK DfID , UK Foreign and Commonwealth Office, USAID , Other Foundations.

Source: Compilation based on information from controlarms.org and member websites

The type of states that tend to donate directly and have their names on Control Arms and ATT Monitor, are primarily progressive states.⁶⁶ Why these type of states are willing to participate and be publicly named for doing so could be due to two main reasons related to state socialization. On the one hand, it might be related to what was discussed in chapter 4 on Jennifer Erickson's view and the states' will of maintaining their international reputation intact while enhancing their reputations as responsible citizens of the international community (Erickson, 2015; Erickson, 2009). On the other hand, it could have to do with Benjamin de Carvalho and Iver B Neuman (2014) view on status seeking of small states. For them, a state's place in the hierarchy of states is also a place on the map of global politics, therefore, status-seeking pursued through foreign policy becomes key to a small state's identity. De Carvalho and Neuman focus specifically to Norway as a small state, but it is clear that this can be relatable to the progressive states like Australia, Finland, the Netherlands, Sweden and Switzerland involved in the ATT Monitor. Most of the progressive states that finance or have financed Control Arms, to date maintain their status by continuing their full involvement in humanitarian causes. Germany, was actually a major arm exporter that recently abided by the rules of ATT and decided to stop sending arms to Saudi Arabia. The case of the UK, although a major arm exporter too, is different. It encounters a duality. On one hand, it has for many years gotten involved indirectly and directly with NGOs farther than as a financial partner. It was the number one championing state in the process of ATT and pushed for a arms control despite its exporter status. On the other hand, lately, it has fallen out of the grace of possibly considering itself a progressive state. It has continued to export arms to Saudi Arabia arming one of the deadliest conflicts of our times. This duality is complex and due to many factors that will be delved to in detail in the next Chapter of this thesis.

Materially, it is evident that securing funding is key to NGO while utilizing NGOs for certain domestic and international benefits is crucial for some states. Material interests of both NGOs and states are set in a multilayer fashion that is directly connected with moral interests. NGOs, like Control Arms, have decided that attracting bees with honey is easier when staying in a reformative methodology, with tints of transformative, and states, like the progressive states financing Control Arms, have extend money towards an apparent selfless cause with hints of selfishness throughout. There is a deliberative sense of supporting morality in both cases, but in the case of Control Arms when collated with financing *neighbouring false morality* can easily shift into *false morality*. However, with this strategy it turns out to be win-win for both Control Arms and the actual advancement of the ATT, even if the advancement is slow and not full. The question is if the funding from progressive states, or any state for that matter, comes with strings attached. Does it make a difference in the organisations actions? Do the material and moral interests of the state influence or are imposed onto the NGO? Unfortunately, it is very hard to prove

⁶⁶ Much more will be delved upon why progressive states get involved in this in chapter 7 with the case study of Norway.

this, it probably does not happen explicitly. However, it does put the validity of the NGOs morality in doubt. Thomas Risse claims that when NGOs step away from their supposed public interest or common good towards a private interest, NGOs can “lose their credibility” (Florini, 2000, p.186). Has Control Arms lost their credibility because it is being financed by states? Or does it depend on which states finance it? If the funding comes from harmless progressive states, that are maybe not large exporters of arms and have a peace seeking reputation, does it make a difference? Or is it that the population is used to such situations in relation to NGOs and decides to turn a blind eye and fully believe in the morality of organisation?

Finding out these questions would be a whole different project, and the result would probably turn out to be ambiguous, as both getting through to NGOs to deliver their financing reasoning would be hard and understanding if the population feels disappointed over this would be close to impossible. What these questions display is the complicated nature of morality and materialism and they are the reason as to why this case has been designated as *neighbouring false morality* and not fully *falsely moral*. This because of the nature of the NGO, that despite being reformative has its basis in morality and human rights. The questions also lead to wonder where the NGO stands, is it fully a non-state actor, can it be considered a state actor, is it a *mixed actor*? The degree of how mixed an actor can be varied, as will be seen in the subsequent chapters, particularly chapter 6. Control Arms and ATT Monitor are in fact funded by states, at least states that tend to be more keen to peace and morality internationally. This makes them reformative NGO dependant on the state but does it make them *mixed actors*? The degree of independence of Control Arms can be somewhat questioned, but for the most part more than being considered a *mixed actor*, like those that will be analysed in following chapters will be, it is considered a non-state actor that receives funding from some states. A reformative non-state actor, that is. The nature of the actor is mostly carried out in the non-state sphere. Where actors fall if they are involved in both spheres depends mostly to the relevance they have in one field or the other, more importantly this complexity is a reflection of the multilayeredness of the actors and activities involved in the norm dynamics of the human rights and security relationship. They also demonstrate the semi permeated boundaries of the state and non-state actors. What is essential for this chapter is that Control Arms and the ATT state parties, in particular those involved in financing, develop a certain dynamic understanding that allows for both parts to fulfil their moral and material interests whilst continuing to advance in their duties with the Treaty. It is also important to recall, Avant et al. (2010) and the expectation of surprises in the dynamics of global governance. Certainly the possibility of defining Control Arms as a mixed state and non-state actor is a surprise. Nevertheless, Control Arms, through the ATT Monitor Project seems to have found a balance that allows its characteristics to continue to support morality and at the same time up keeping with the indirect control from states. State parties have found a further way of advancing in their material interests and indirectly influencing an NGO. All in all, this allows

Control Arms to survive and dedicate to its principal duties without having its power of decision and its morality taken away.

Particular overlap of the human rights and security relationship

The genealogical and constitutive causality framework of analysis and the constructivist base have showed how a reformative type of NGO acting internationally in favour of international and domestic issues has managed to have an effect or not on the norm implementation dynamics of the life cycle of the Arms Trade Treaty. In this sense, the particular overlap of the human rights and security relationship for the case of Control Arms-ATT Monitor in relation to the state parties of the ATT is the reflection of the constructed environment in which it lives in. It echoes the tensions between state and non-state actors, between security and human security, between morality and materialism that have developed specially in the last few decades. It demonstrates the social processes between NGOs and states and between structure and agency and the constant evolution of both. All of this, coupled with supposed advancements in the arms control arena, as well higher praise for civil society organisations.

Characteristics of the human rights and security relationship today

The human rights and security relationship displays the complexity of the particular nexus that the moral and material interests of Control Arms- ATT Monitor versus the ATT exhibit and with it the evolution and obstacles that the rise of the human security side entails. Particularly visible is the tension between state and non-state actors with the rise of human security and a more controlled state security represented by the rise in arms control that the Arms Trade Treaty seeks. State and non-state actors interact in this realm and show how they have adapted, or not. For example, the data analysis and information gathered and published in the yearly ATT Monitor reports, as the verification mechanism of ATT, is evolving in such a way that it is having an impact upon states, whether mild and therefore can be seen as a tool to advance the human rights side of the human rights and security relationship. Another example is the multilayer effects the interaction between Control Arms- ATT Monitor and the state parties have upon each other, upon the evolution and fulfilment of the Treaty and upon the relationship.

The complexity of the morality in particular gives a sense of how the human rights side of the relationship struggles against the security side. How flirting with *false morality* is something non-state actors have to endure in order to inflect change on state actions and how it is connected to the differences between a human security embedded in complacent militarism versus CMV that allows actors to promote cultures of peace in a global and local manner, as was explained in chapter 1. How reformative NGOs have more power in many senses because of this, because in the

long run their progress is slow and relative, as opposed to the gamble transformative organisations seek to gain absolute change. The perception of this morality has much to do with funding and with the survival instinct of organisations like Control Arms. Actually it could be said that Control Arms has evolved into this purposefully and knowingly that the only way to reach progress, even if relative, is through support from states accompanied by slight denigration of their moral side. Financing, from the state side, displays the dynamics that progressive states have to endure to persist the international hierarchical dynamics in the international scene. Progressive states, by supporting NGOs, have constructed a world where their status in state hierarchy is protected while NGOs are doing the same on the flip side. At the same time, both types of actors are aiding, indirectly or directly, human rights in the human rights and security relationship. In the case of progressive states, as opposed to great powers, their actions can be seen as attending their security side whilst maintaining their human rights side. Even if they continue to feed into giving rights whilst controlling the means of violence, they are also feeding into the opposite side. The truth is that because the ATT represents all state parties, it has to take as a whole. However, it is important to recognise that not all states are built the same and that they all, at one time or another, face a duality in the ever-changing human rights and security relationship.⁶⁷

NGOs seeking adherence to norm implementing pursue change from state actors to comply with international human rights and humanitarian law. This change results to be dynamic and therefore, implying a constant push and pull between state and non-state actors. This dynamic varies depending on the actors involved and on the circumstances around it.⁶⁸ Change is complex and specially in these case studies it is characterised by contingency, this in relation to its constructivist nature, as mentioned in chapter 1 and also to the genealogical framework of analysis approached. Complexity comes from the fact that change is constant and that change cannot be simplistic, otherwise it leads to failure and missed opportunities (Green, 2016). Because of complexity organisations need to be flexible and convene and broker relationships (Ibid.). In order to do so, organisations need to understand power and with it identify the playing field. This is precisely what the non-state actors portrayed in this thesis have done. Control Arms, through its ATT Monitor report and through its history of supporting the creation of the ATT, has understood that in order to survive and thrive it should mould their activities to those of the powerful actors to ensure greater implementation of the Treaty. Specifically, the ATT Monitor Report has engaged in seeking to have a diverse set of experts researching, analysing and


⁶⁷ This dualism will become more apparent in chapter 6 and 7 with more focus on particular kinds of states in the implementation of ATT.

⁶⁸ As mentioned earlier on note 55, Stavrianakis identifies NGOs as being insiders or outsiders, this based on Grant (Grant, 1978). Insiders will be better able to generate change, but that change will likely be incremental, technical in nature and featuring high potential for co-option; outsider strategies involve more transformatory demands that cannot be accommodated in the current state of affairs, but are less likely to be listened to by policymakers (Stavrianakis, 2013, p.63). For more see Chapter 3 of Ibid.

writing the report. Experts from different NGOs, global and local, academic institutions and other organisations. Financing, as discussed above, also influences ATT Monitor's actions and therefore influences the amount of change that can actually happen given the compromises the organisation must follow to ensure financial survival. Because of these characteristics, coupled with the moral and material interests described in Figure 1, it can be seen how far the ATT Monitor has gotten into reaching its objective. In overall terms, CA-ATT Monitor has struggled to make a clear impact on the improvement of the regulation of the Arms Trade since its activities has stayed within the framework of the states that fund it. The weight of those that are behind the organisation, the states, is only allowing CA to reach the potential that those actors decide. ATT Monitor reports reflect the strains between different state actors, those who support openly and directly CA and those who seek reassurance of their interests. This then is reflected in the human rights and security relationship and on its degree of false morality as has been discussed throughout the chapter.

Figure 1 shows in concrete form the human rights and security relationship for this chapter's case. Here, the complexity of the moral and material interests of the actors in question becomes more apparent and seen in table form allows for a better understanding of the how the moral and material interests of the actors collide. In terms of the Venn diagram, it looks almost like both sides are equal due to the input that both have in this case. However, it is actually a constant inflation and deflation of the bubble, the HR one in particular. The intention is there, in many senses morally authentic, to become bigger, but the material survival of both the CA and the state parties obtrudes with it. The security circle has not swallowed the human rights one, at least not tangibly. The human rights and security relationship of this case overall reflect that the ATT has advanced, but states continue to give rights whilst controlling the means of violence. The relationship shows how through a CMV lens, the analysis gives centre stage to morality issues, like *false morality*, aiding in addressing the weaknesses of constructivist theory.

Figure 1

The human rights and security relationship of Control Arms and ATT State Parties Control Arms ATT-Monitor	
Overlap defined by moral and material key interests of:	
International Non-state Actor Control Arms-ATT Monitor	International Treaty and group of state actors The ATT: State Parties
Moral Improve regulation of Arms Trade, universalisation of ATT, full implementation of instruments of IHL/IHRL: ATT, European Code of Conduct, UN charter, etc... False Moral? Material Political/Status maintenance, keeping role in ATT and CSPs, Funding	Material (economic, security, etc.) ** maintenance of role in ATT, domestically and internationally (international hierarchy), upkeeping of deals with non-members and/or arms industry, freedom of action, strategic security, reputation and status-seeking Moral and False Moral** Support to ATT, Engagement in CSPs and reporting, full implementation of ATT (False Moral) , Improve arms trade (False Moral), Support UN and other state parties, upkeep human security discourse (False Moral) **Not all member parties
	

Implications for future ATT implementation

The particular nexus of key interests of Control Arms-ATT Monitor and of the state parties of the ATT exposes the nuisances that come with having an NGO involved in treaty mechanisms. The fact that Control Arms has decided to enter this multilevel game of players and interests and the fact of how this attitude has evolved questions the organisations independence and its implications for its future and for the future of the Treaty. Control Arms-ATT Monitor survival results contingent to the willingness of states to finance it which indirectly imply certain degree of power of the state over the organisation. In this case, ATT Monitor has diverse states supporting its financial needs, most of which could possible not be expecting anything in exchange. However, the prerogative of Control Arms is still unclear. If this continues into the future, which it most likely will as it is set up to be like this, this would mean that Control Arms' actions would always be viewed as not entirely independent. Within this, the morality that is supposed to be a reflection of what the population as a whole wants can continue to be eroded and further enter the realm of *false morality*.⁶⁹

Whatever progress ATT Monitor, as a reformative organisation of the civil society has achieved, whether real or perceived, is certainly slow and very relative. This relative progress questions the real advancement in terms of ATT implementation that can be

⁶⁹ More on how NGOs that have clear support from states are managing the implementation of the ATT will be understood in chapter 7 with Redd Barna (Norwegian Save the Children) and Norway.

reached by Control Arms. Will it continue to progress along the same lines, will it stay in the same grey area that it has been in for the past 4 reports? Would a more transformative type of NGO advance more?⁷⁰ This is tricky because the reason that Control Arms has been chosen to inside the treaty mechanism, even if it is as a subcontractor of governments, with relative gains, is because it is seen as a harmless organisation. It is seen as an organisation that can be tamed, or at least that knows its place within the hierarchy of international actors. However, it may be, these first few reports are further constructing and defining the identity of Control Arms and of ATT Monitor within the ATT life now and tomorrow. What is true is that these reports, the ATT Monitor case studies and Control Arms' actions in the CSPs have shaken the normality of the Treaty, at least superficially. Nevertheless, this progress is relative, especially when considering the case of Yemen. Yemen has been the hot topic and used particularly in the 2016 Report. There has been progress, in the sense of certain states stopping their exports to Saudi Arabia. This is not necessarily due to the 2016 report, it is probably due to a mix of multilayered pressures from above and from below, from the past and from the future of these states. Then, have the publications on Yemen by ATT Monitor reports and otherwise, made a difference? Is the progress real or only superficial? This leads to also the progress in terms of the implementation of the Arms Trade Treaty and its implications for the further evolution of the human rights and security relationship. Is it real? Is it perceivable tangibly today? In terms of realness of the evolution of the human rights and security relationship, the only real fact is that it is ever-changing and that real changes take time. The best example of this is the evolution of norms based on human rights and how they have been seeking change since the end of the 19th century and the creation of the First Geneva Convention. Put into this perspective then, the real progress and the implications of it on the Treaty and on the human rights and security relationship are too early to show.

The reality of the particular overlay that the human rights and security display in this case is that both states and Control Arms-ATT Monitor use each other to try to achieve both the implementation of the ATT and their own selfish interests. Both types of actors are seeking to maintain their roles in the international scene, seeking to advance the Treaty whilst maintaining the status quo and without any real provocation of large exporting states that might be to blame for the lack of improvement in the compliance. With this, both the progressive states and Control Arms are defining their identity and their role within the realm of the Arms Trade Treaty. Because of this role, to date, lacks real tangible change and/or real impetus to push violating states to comply it is slowly constructing a human rights and security relationship that continues to allow security to overlap with human rights without taking much of the human rights side into consideration. This is the risk of being a reformatory organisation, with only hints of transformative or is it? This precisely will

⁷⁰ Chapter 6 has a transformative NGO as its basis, CAAT. More on how these types of NGOs interplay with the implementation of ATT will be understood then.

be the topic of the next chapter were a transformative organisation has sought to produce change in a violating large exporting state.

Conclusion

With a genealogical constitutive causality, this first case study chapter has problematized the complexity and contingency of the construction of the human rights and security relationship through an intricate nexus of moral and material interests. The ever-changing constructivist notion of the human rights and security relationship has pointed towards morality to address issues of the constructivist theory. The growing personality of an arms control- human rights based NGO has been evidenced and with it the intricate road to its understanding. Theoretically, this chapter has empirically exemplified the distinct role that organisations play in norm implementing and in the human rights and security relationship beyond what has been established previously (Finnemore and Sikkink, 1998; Keck and Sikkink, 1998; Muller and Wunderlich, 2013; Boli and Thomas, 1999b; Risse et al., 1999; Risse, 2008; Mathur, 2011; Garcia, 2014). It has also demonstrated how non state actors operate and influence international norms by entering into unknown territory (Anheier et al., 2005; Chandler, 2004b; Chandler, 2004a; Kaldor, 2013b) by globally governing and interacting with states (Avant et al., 2010). More than that it has showed how constructivism and the English School cross-fertilize (Reus-Smit, 2002) to create a better understanding of the human rights and security relationship and beyond. This chapter has also introduced crucial pieces, to further understand the relationship, *norm implementers* and *false morality*. *Norm implementers*, as organisations that implement the norm in later phases of the cycle and are similar to the agents in Rawl's original position, as they are supposedly free and fair. *False morality*, as a combination of the realist view of morality, that also happens to be Milleau, and Bull's perspective that also happens to be Kantian.

Empirically, the chapter started by defining what the situation is with Control Arms and its ATT Monitor Project, with what is the approach used to succeed in the ATT. ATT Monitor provides independent analysis. Its staff and editorial members are members of Control Arms, who actually belong to different international NGOs or work independently as consultants. These initial reports show statistical information on what the treaty universalisation, implementation and functioning looks like. They highlight the best practices as well as the areas of opportunity. They evidence that Control Arms' task to ensure effectiveness of the ATT will need patience. Overall they display that states are in direct control of ATT practices, but that Control Arms through the ATT Monitor is on indirect control of practices and direct control of good practice.

Control Arms is constructing its *norm implementer* role with every CSP, every ATT Monitor publication and every action in the realm of the ATT implementation. The power of NGOs to influence implementation, especially of arms control norms is being put to the test with these actions. They are also defining the political identity of the

NGO whether in relation to the state or otherwise. In the case of the ATT it is in relation to all the member parties of the Treaty, as they are the leaders. Control Arms has found its identity of assisting, that is its legal identity. Politically the direction the organisation wants is clear, however in order to truly define itself as a separate entity from the state it will have to continue constructing its own space. Control Arms and Control Arms- ATT Monitor's political or a-political identity is better defined by the nexus of moral and material interests and by how these are related to the state parties of the ATT.

The reports, particularly in relation to the Yemen case, have exposed Control Arms's morality. It is not to say that Control Arms-ATT Monitor is not fully lacking morality or *falsely moral*. Nevertheless, it is flirting with it and therefore defined as *neighbouring false morality*. Control Arms- ATT Monitor as an established government subcontractor (Florini, 2000, p.213) is one of the many examples of the growing role of NGOs and of the rise in states founding them, specially in the last decades. In the literature, this has been argued as to do with the globalization of political structures and Western values (Reimann, 2006, p.46) and in international development scholars as causing dysfunction (Cooley and Ron, 2002; Duffield, 1997; Edwards and Hulme, 1996; Fruttero and Gauri, 2005; Gauri and Fruttero, 2003; Molina-Gallart, 2014). Further than this, Heins (2008) has described this phenomenon as NGOs that become "benign parasites" that seek to infect and change the behaviour of their hosts. This resonates with the reformative nature of certain NGOs, like Control Arms. Control Arms' funding is separated as the funding that goes to the actual organisation and what goes to the ATT Monitor Project. Both were analysed in this chapter because Control Arms as the pilot organisation is key to the understanding of ATT Monitor's actions, as well as acting solo in the CSPs and beyond. Table 1 showed the member organisations and foundations of each one. Materially, for both Control Arms and Control Arms-ATT Monitor, interests are better understood in a multilayer style connected to moral interests. The question is if the *neighbouring false morality* can easily shift into *false morality* when its seen through the financing lens, if there are strings attached with the financing coming from states? Unfortunately, this is very hard to prove because if it happens it does not happen explicitly. Because this lack of proof, this case has been designated as being *neighbouring false morality* as opposed fully *falsely moral*. However it may be it puts the NGOs credibility on a tightrope. It is too early to see if Control Arms has lost credibility because it is financed by states, despite seeking to be opposed to them. This had led to wonder if the particular state the funding comes from makes a difference. Finding this out would be an entirely different study, nonetheless interesting to mention specially for the further understanding of the nexus of material and moral interest and where the human rights and security relationship stands. Moreover, theoretically speaking, the contingency in this case study, particularly in relation to morality accounts for the contingent core of constructivism (Kessler, 2016) and the co-constitution of societies (Onuf, 2009).

The constructed environment in which the human rights and security relationship of this case resides, reflect the particular overlap of the relationship. It displays the strains that exist between state parties and Control Arms, between morality and materialism and, of course, between security and human rights. It shows the multilayer response that the interaction between state and non-state actors creates as well as the complexity of the morality of NGOs and progressive states. Particularly how the perception of morality and even *neighbouring false morality* is complex and demonstrates what actors have to endure in order to maintain or construct their role in the international scene. Both non-state and state actors, particularly those involved heavily in financing are directly or indirectly gaining leverage for the human rights side of the human rights and security regime. It is important to mention that not all state parties are built the same, and chapter 6 and 7 will further exemplify this. Nevertheless, the concrete form of the human rights and security relationship in Figure 2 shows how it is actually a constant inflation and deflation of the bubbles, particularly the HR one, where the material survival of both states and Control Arms obtrudes its stability.

The fact that Control Arms decided to enter the complex world of norm implementation evidences how in the construction of its role it is somewhat defining the future of the perception of NGOs, the future of those state parties heavily involved, and the future of the Arms Trade Treaty. Because of the complexity of its role, Control Arms still needs to define what it wants and keep in mind that its morality is the reflection of the population and there is a need to protect it from erosion, or from fully entering the realm of *false morality*. The progress, real or perceived, that ATT Monitor has achieved is still relative and it needs to be more concrete. The ATT Monitor studies, the actions by Control Arms in the CSPs and the Reports have at least superficially shaken the surface of the full implementation of the ATT. Nevertheless, the progress is relative when comparing to the Yemen crisis. This is also affecting the evolution of the human rights and security relationship. Despite this, it is important to take into consideration a well-known norm lifecycle, the First Geneva Convention and how progress takes time and it is never absolute but should always be moving forward.

Chapter 6- The UK, CAAT, the 2017 High Court decision and appeal 2019: seeking Treaty implementation

Introduction

As the state constructs and is constructed by the surrounding world, certain decisions become more sensitive than others. Following national, regional and international normativity tends to suffer in this process, as there is no need for compliance with norms despite their role in shaping national security (Jepperson et al., 1996). Such is the case of the implementation of the Arms Trade Treaty in the UK, in particular when referring to the UK arms exports to Saudi Arabia. Despite the UK role in the success of the creation and acceptance of the ATT, the implementation of the Treaty is exemplifying ignorance of the norm and preponderance of domestic and international interests. The UK has continually sold and signed contracts for the future selling of arms to the Kingdom of Saudi Arabia, Turkey and other autocratic regimes. Directly or indirectly, this has put the UK in the responsible position of the continued violation of human rights, in particular in the Yemen Crisis.

The Yemen Civil War and the civilian casualties that accompany it have been labelled by United Nations agencies as the world's worst humanitarian crisis. The humanitarian atrocities have been primarily attributed to the use of combat aircraft used by the Saudi-led coalition and supplied largely by US and UK arms exports. The UN panel of experts, NGOs and the European Parliament have been condemning the use of airstrikes against Yemen and calling them unlawful. Several countries that used to export arms to Saudi Arabia have decided to stop, the UK has not. Under UK arms export licensing legislation, European Code of Conduct on Arms Exports and the Arms Trade Treaty, export licenses must not be granted if the equipment could be used to breach international humanitarian law. However, data shows that the UK has licensed arms worth 4.6bn pounds (The Guardian Correspondent, 2018) and sold at least 5.7bn pounds worth of arms to the Saudi led coalition since 2015 (The Guardian Correspondent, 2019). The data also shows that over 60,000 people have been killed in the conflict since the start of 2016, that by January 2017, more than 3,500 children had been killed or injured in the fighting, and that it is estimated, in November 2018, that 85,000 children may have died from extreme hunger or disease since April 2015 (ACLED, 2018; ReliefWeb, 2017; Save the Children International, 2018; CAAT, n.d.).

This has led to increased scrutiny and attention of the public and the parliament about the British supply of weapons to Saudi Arabia. Within the government, this has created a division amongst MPs on the committee on arms exports control over alleged breaches of international law in Yemen; it has led other committees, like business and international development, to come up with a joint report validating that the UK government had not answered to the allegations of violations of IHL in Yemen in any meaningful way; and it has also meant that the Department for

International Trade has been releasing statistics quarterly. These government measures and issues have developed parallel to the civil society campaign, led by CAAT (Campaign Against Arms Trade) that has scrutinized each Saudi arms deal and pushed so far as to demand a judicial review of whether the licensing that had been granted is compatible with national and international legislation. The initial High Court ruling of 2017, that will be explained further below, indicated ambiguity over the UK's position on arms exports to Saudi Arabia and the issue of them interfering with the implementation of international humanitarian treaties, like the Arms Trade Treaty and the European Code of Conduct. In June 2019, the Court of Appeal overturned the 2017 decision and exposed the unlawfulness of the UK government. To date the licenses have not been revoked and the government is violating what was stated by the Court of Appeal by continuing to sell arms. However, the June 2019 results do signify a win for civil society and overall an advancement for the human rights side of the human rights and security relationship.

This chapter will delve into what the relationship between human rights and security is in the context of a large arms exporter state, specifically the United Kingdom. The chapter will go in line with what has been happening throughout the thesis: deconstruction of the case, the main actors and the nexus of key moral and material interests in order to construct the specific constructivist human rights and security relationship. Deconstructing and constructing in the genealogical sense of the analytical framework set in chapter 1 alongside a constitutive causal analysis will be the basis for the problematizing this chapter. Explicitly, the first part of this chapter will explain the details of the implementation of the ATT in the UK exemplified by the High Court decision of 2017 and appeal 2019, led by CAAT.⁷¹ It will highlight the importance of norm implementation dynamics and the denominated *norm implementers* that act within the second phase of the life cycle of a norm domestically in the context of the constitutive causality of the international Treaty and therefore of the human rights and security relationship.⁷² Furthermore, this part of the chapter, will focus on appreciating the 2017 decision of the Court as based in procedural matters and in international hard and soft law. This, in the context of the analytical framework used across this thesis, genealogy linked to constitutive causality. The second part of this chapter focuses on the nexus of material and moral interests that are ever-changing

⁷¹ CAAT is not the only UK NGO with interests of balancing out the human rights and security relationship. However, it is the leader working directly to against the arms trade within the UK and particularly with the Saudi Arabia case. This is why, CAAT, will be considered later as a *norm implementer*. However, the other NGOs involved are also dedicated to researching more on the issue. For example, Human Rights Watch is investigating civilian attacks made by sea by the Saudi led coalition. It is also relevant to mention, as will be seen throughout the chapter, that CAAT considers as working domestically, without any causality upon international norms as well as not directly working with controlling arms just with stopping the promotion of them. This taken from the interview with Ann Feltham from CAAT (Feltham, 2019). However, indirectly they are aiding in the construction of a better human rights and security relationship as will be seen in this chapter.

⁷² *Norm implementers* have been explained in detail previously in chapter 5.

and constantly intertwined. It will explain the state's *false morality*, as well as the morality of a transformative organisation of civil society, CAAT, needed to balance out the human rights and security relationship.⁷³ Exposing *false morality* and morality of non-state actors will demonstrate the CMV lens used in this thesis, where actors, whether state, mixed or non-state, do to promote cultures of peace in a global-local manner in order to avoid relation to an embedded militarism. It will also, focus on the nexus and how it is largely defined by answering to the question of why states export arms despite belonging to IHL/HRL instruments, like the ATT. The final part of the chapter, centres on the particular overlap of the human rights and security relationship and its main actors. Equally as in the previous chapter, this last part includes a Figure to aid in the understanding of the human rights and security relationship and how complexity and contingency exemplify it as typically constructivist.

This chapter, like chapter 5 and 7, will contribute with this thesis's objective of understanding constructivist norms further by keeping in mind past studies (Finnemore and Sikkink, 1998; Keck and Sikkink, 1998) and the growing literature around them (Florini, 2000; Price, 1998). Also, the contingent and complex characteristics of the human rights and security relationship and its relation to morality will continue to expose and aid the weaknesses of constructivist theory. The chapter, seeks to continue with the evolution of non-state actors role in the evolution of norms (Boli and Thomas, 1999b; Price, 2003) particularly into those acting within the realms of arms control regimes and in later phases of the lifecycle of norm. This chapter will also stem from theories on non-state actors and their influence on global norms (Chandler, 2004b; Chandler, 2004a) and their operation beyond national confines (Anheier et al., 2005) and into new cross-border spaces (Kaldor, 2013a) that demonstrate the semi permeability and limits of the actors involved. The explanation, on the second part of this chapter, of the nexus of moral and material interests will be aided by the understanding of seeing norms as explained by the evolution of society (Buzan, 2001) and in connection with what constitutes ethical conduct (Reus-Smit, 2002).

The High Court judgement of 2017 and appeal of 2019

The case around which this chapter is based is the High Court decision of 2017 as well as its main actors, its background, its analysis and its consequences, particularly those related to the implementation or lack thereof of the Arms Trade Treaty. Today the Court of Appeal has overturned the 2017 decision and with it forced the British government to suspend the approval of weapons licences that could be used in Yemen. The government, through the Secretary of State for International Trade (SoSIT) Liam Fox, has said that it will appeal this decision (Fox, 2019).

⁷³ Refer to chapter 5 for a definition of *False morality*.

It is important to note that the case will be better understood by the end of this chapter, due to the fact that its analysis will continue and fully develop into the second part of the chapter. Nevertheless, this first part seeks to briefly introduce and start the analysis of the topic. Without being overly descriptive, this subpart will need to first focus on the introduction of the case, including its main actors and its main conclusions. This will aid in the analysis that will be done throughout this chapter. The actors' full set of interests will be elucidated with greater detail and in more reference to theory in the following subpart. In the meantime, this will serve as a basis for deconstructing the issue. The second subpart will seek to continue with the analysis of the actors, but in particular with the High Court of Justice. To continue with the deconstruction, it will be focus on the constitutive causality of the High Court and on the construct of the conscious or subconscious use of hard and soft international law to achieve its 2017 decision.

Introducing the actors of the 2017 decision and 2019 appeal

This issue started when CAAT's solicitor presented a letter claiming that "the UK Government was acting unlawfully in continuing to grant export licences, and in not suspending extant licences, for the supply of UK-produced military equipment to Saudi Arabia that could be used in Yemen"(High Court of Justice, 2017a). This continued with a back and forth bouncing of letters that ended with the Judgment of July 2017. The actors involved are: (a) the claimant, Campaign Against the Arms Trade (CAAT); (b) the defendant, the Secretary of State for International Trade, Liam Fox (MP, conservative); and (c) the intervenors, Amnesty International (AI), Human Rights Watch (HRW), Rights Watch UK and Oxfam. Also, interested parties BAE Systems and Raytheon Systems Limited are included. The issue claimed by CAAT, was whether the SoSIT is obliged by law to suspend current export licences and deny new licences as there is "a clear risk that the arms might be used in the commission of a serious violation of International Humanitarian Law"(High Court of Justice, 2017a).CAAT pursued this on three main grounds of challenge against the defendant that can be summarized in failure to ask correct questions, making sufficient inquiries and not fully taking into consideration the consolidated criteria for the licensing of arms exports. All in the hopes of stopping the crisis in Yemen from rising further. Because of the result of the Judgement, in favour of the SoSIT, CAAT appealed. The appeal took place in April 2019 and the result came out to the public in June 2019.

The High Court held open and closed judgments, due to national security reasons. The closed material procedure enabled the Court to consider a "full range of evidence... that provided valuable additional support for the conclusion that the judgements made by the Secretary of State were rational" (High Court of Justice, 2017a). Like this, the High Court of Justice concluded the following: (1) the MoD has crucial information on uses of armament and provides significant training to the Saudi armed forces on the respect of IHL; (2) Saudi Arabia is committed with complying with IHL; and (3) there was no duty on the Secretary of State to make a determination of the likelihood

of a breach of IHL and his decision not to suspend export licences to the Kingdom of Saudi Arabia was not irrational or unlawful” (High Court of Justice, 2017b)⁷⁴. Also, in relation to the main ground challenges, the court says that: “the fact that the Secretary of State did not expressly consider or address each or any of the questions does not mean that he failed to discharge his Tameside duty” (High Court of Justice, 2017a).⁷⁵ The latter comes from the understanding that: “the process of governmental decision-making is highly sophisticated, structured and multi-faceted process...involving many levels of seniority and particular expertise”, “there is a significant qualitative difference between the risk analysis which government agencies carry out and the reports of the NGOs... reports of the NGOs and press suffer from a number of weaknesses including: such organisations have often not visited and conducted investigations in Yemen and are reliant on second-hand information”, “the UK’s MoD is not involved in identifying targets and does not have access to the operational intelligence, and “the question of arms sales to Saudi Arabia for use in Yemen was the subject of intense genuine concern and debate by those officials charged with advising the Foreign Secretary and Secretary of State- this is apparent from the documents of February 2016”(Ibid.).⁷⁶ In other words, this means that, according to the High Court, there is evidence to demonstrate that the licensing of arms exports was done in a carefully, thoughtful and considerate way and that the government’s expertise in the topic are higher than those made by the claimant and by the documents, made by NGOs and the press, that the claimant is supported by.

Part of the basis for the decision was the consolidated criteria established on the 25 of March 2014.⁷⁷ These criteria are the compendium of crucial points from international law instruments that the Secretary of State for Business and Innovation and Skills should be guided by when making decisions on licencing of arms exports. It was changed in 2014 to fit the Arms Trade Treaty and was last changed before that in 2000. Interestingly, according to the Secretary of State for Business, Innovation and Skills, Vince Cable in 2014, the criteria indicate that it will not be “applied mechanistically but on a case-by-case basis taking into account all relevant information available at the time” and that “while the Government recognise that there are situations where transfers must not take place, as set out in the criteria, we will not refuse a licence on the grounds of a purely theoretical risk of a breach of one or more of those criteria” (Cable, 2014). The High Court decision was based on these criteria without questioning the secretary’s decision by saying the following: “in an

⁷⁴ Important to note that the courts did not seek to adjudicate if the coalition was committing breaches of International Humanitarian Law.

⁷⁵ The duty of a decision maker is referred to as Tameside duty, stemming from the case of: the House of Lords in Secretary of State for Education and Science v. Tameside Metropolitan Borough Council from 1977. If this case had not existed, maybe the High Court’s decision might have been different.

⁷⁶ It is important to note that this is an overview of the judgement and not every conclusion and argument is reported here. Notwithstanding, these are the relevant conclusions needed to analyse and understand the case throughout this chapter.

⁷⁷ The predecessor of the consolidated criteria is the Export Control Act 2002.

area where the court is not possessed of the institutional expertise to make the judgements in question, it should be especially cautious before interfering with a finely balanced decision reached after careful and anxious consideration by those who do have relevant expertise to make the necessary judgements” (High Court of Justice, 2017a, para.209).

This judgement had effects beyond this specific case and reflect a lack of balance between the different sections of the British government. This is, of course, if the British government is seen not as a unitary entity but as a sum of many sections. And therefore capable of giving rights to itself, as mentioned in chapter 1. On the one hand, there is the SoSIT that will allegedly not take into consideration “theoretical risks” despite the tangible proof that this type of decisions can affect thousands of Yemeni’s, for example.⁷⁸ On the other, is the High Court, that seems to only follow procedure and squarely adopt stances that might be violating international instances. On an even further opposite hand, there are other government dependencies that have supported either the defendant, like the Foreign Secretary for example, or the Department for International Development (DfID), who actually indirectly opposed the SoSIT and the High Court in this case. DfID financially supported Oxfam who acted as an intervener in the judgement and therefore indirectly supported the CAAT side of the judgement.⁷⁹ It has to be taken into consideration that Oxfam’s intervention is minor, and although on the CAAT side of the discussion it does not stand in the same position as the Secretary of State for Trade or the Foreign Secretary’s position. However, it is important to note that indirectly and also outside of the realm of the High Court, there is an effort from within the government to support the human rights side of the conundrum. For example, in February 2019 the House of Lord Committee on International Relations exposed in a report on Yemen that the UK government is “narrowly on the wrong side” of international humanitarian law “given the volume and type of arms being exported to the Saudi-led coalition” that are “highly likely to be the cause of significant civilian casualties in Yemen” (House of Lords, 2019).

It could be therefore said that in a remote indirect way, DfID through Oxfam is a *norm implementer* and even a type of *mixed actor* between state and non-state. This because, it aids in the full implementation of a norm, like the Arms Trade Treaty or any other IHL norm mentioned in the Consolidated Criteria of the UK Government. The norm implementing role of the House of Lords, is more distant and other Parliamentary Committees and individual MPs could be also seen as indirect *norm implementers*. Also, their actions did not occur within the realms of the High Court decision or the Appeal. However, norm implementation can in fact come from within the state. DfID’s intervention, the House of Lords report and other’s actions are not

⁷⁸ See the introduction of this chapter for the effects of the crisis on Yemeni population.

⁷⁹ At the time of the High Court judgement, Oxfam was still receiving funds from the UK government. However, Dfid will no longer support Oxfam, as of February 2018. This because of the abuse allegations against Oxfam. Oxfam agreed to no longer bid for government support. Oxfam will be able to bid again, until Dfid is satisfied that they can meet high standards.

strong enough to directly enter the norm implementing role. This will be further demonstrated in the Norwegian case in chapter 7 where there is an actor within the state that acts directly upon norm implementing. Nevertheless, this demonstrates the multilayeredness of the issue and how it goes beyond the typical boundaries of the state and non-state actors.

Mixed actors come in many shapes and forms, and because of their nature are sometimes difficult to pin point. They represent the semi permeable boundaries of actors as well as the complex and multilayer nature of norm dynamics in the human rights and security arena. Also, they are a direct reflection that, as Avant et al. (2010) mentioned in chapter 3, of the surprises to be expected in the multilayered dynamic of global governance, whether represented domestically or internationally. Although these actors are in a domestic layer, their actions still construct the international outcome of the norm. Further than DfID, the High Court case and the appeal have had another type of actor: special advocates. Special advocates are basically lawyers with security clearance, which can enter the closed part of the case as representatives of the appellant. These advocates have restrictions as they cannot work with others, they enter alone, they cannot communicate to anybody what they heard or saw in the closed case and most importantly they are not responsible for the appellant.⁸⁰ According to Ann Feltham from CAAT, they are sent from a specific office and “are paid for in the end by tax payer money” (Feltham, 2019). What is interesting about the 2017 case is that the closed judgement was also appealed in 2019 by the special advocates, and although what actually happen will never come to light it is apparently not common for special advocates to appeal, this also mentioned by Ann Feltham (Ibid.). Special advocates, due to the fact that they are paid by the government, in some way or form, but are also siding, even if behind closed doors, with CAAT are then another example of *mixed actors*. These actors would imply that what is being pushed for by CAAT is in some ways aided by the state and it could even imply that the state has a siding apparently in the human rights side of the human rights and security relationship. However, perhaps the significance of the special advocate is dubious, especially since whatever result it might arrive to will always remain behind closed doors.

It could be said that the High Court should have been the tie breaker within the two sides, but this was not the case. However, the Court of Appeal in 2019 has had that tie breaker role. It is expected of the judiciary branch of the government to balance out the overlap in the human rights and security relationship, at least one part of this branch has done so. In paper, the High Court has achieved its duty of objectively assessing the situation, however, in reality some issues were not fully taken into

⁸⁰ The figure of the special advocate was born in Canada, adopted by the EU and then by the UK. In the UK the first case where it was used was in 1997 with the Chahal case, an immigration case by the Special Immigration Appeals Commission (SIAC). It was then used during terrorism cases in Northern Ireland. For more information, see: (Chamberlain, 2018; Chamberlain, 2009; Select Committee on Constitutional Affairs, 2003)

consideration and that is why the claimant asked for an appeal. To set the High Court and Court of Appeal's role it is important to understand that the High Court of Justice for England and Wales, also known as High Court and abbreviated as HCJ, HC or EWHC, is, together with the Court of Appeal and the Crown Court, the Senior Courts of England and Wales. They sit above the county, family and magistrate courts and below the Supreme Court of the United Kingdom. The HC deals with high value and high importance cases and is bound by its own previous decisions. In the 2017 judgement there had not been an exactly equal precedent and therefore the basis was other cases in which Secretaries of State of diverse divisions, like Education or Justice, had had their decision making skills put under doubt.

Arguably, the High Court misread or even ignored certain issues, whether due to real believe of the righteousness of the SoSIT or due to the evidence showed behind closed doors, because of national security. The assumption or the value placed on the assumption that the Kingdom of Saudi Arabia is committed to International Humanitarian Law and therefore to adherence to respect for human rights, was wrongfully presumed. There are many domestic and international examples that demonstrate the contrary and question Saudi Arabia's commitment to IHL. For example, domestically Saudi Arabia is placed as one of the 30 countries on the UK's Foreign and Commonwealth Office's list of human rights and democracy countries (FCO, 2017); or internationally the UN Secretary General included Saudi Arabia and the Coalition members as "parties that recruit or use children, kill or maim, commit rape children, and other forms of sexual violence against children, or engage in attacks on schools and/or hospitals, or abduct children in situations of armed conflict" (UNSG, 2016).⁸¹ Other ignored issues include: the Saudi use of cluster munitions, also advocated by the UK in the 2008 Convention Cluster Munitions; the use of not pre-planned targeting or dynamic targeting by the Coalition; the fact that the Joint Incidents Assessment Team, body established by the Coalition as investigator of allegations of misconduct, was set up seven months after the UK had approved licences to export arms; to name a few (Ibster, 2017).⁸² The High Court's decision showed the elevated position in which the SoSIT was put in. This will be further understood when elucidating the different historical, material and even moral forces behind the decision. Nonetheless, the 2017 decision signifies a lack of unison between the domestic spheres and a divide based on key interests specific to certain parts of the government.⁸³ Also, due the nature of the 2017 judgement in favour of the SoSIT, it could be said that the High Court did not take into consideration IHL, specially a crucial treaty like the Vienna Convention on the Law of the Treaties (1969). Under the Vienna Convention, ratification means: "in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a

⁸¹ Even if these allegations were removed allegedly by pressure from Saudi allies.

⁸² These issues and others are well set and deeply delved by Roy Ibster of Saferworld in the document "Reflections on the UK High Court Decision on arms sales to Saudi Arabia" (Ibster, 2017).

⁸³ These key interests will be dealt with in detail in the next part of this chapter.

treaty” (Article 2(b) 1969). The state, in this case the UK, has given “consent to be bound by a treaty expressed by ratification, acceptance or approval” according to Article 14 of the Convention (Article 14 1969). In good faith, or *pacta sunt servanda* Article 26, the UK must upkeep the agreements made when signing and ratifying Treaties. Also in good faith, the UK has to interpret the treaty “in their context and in the light of its object and purpose” (Article 31.1 1969). However, the issue in question and the judgement is assuming that the SoSIT did follow the Criteria, therefore the Arms Trade Treaty, therefore the Vienna Convention. In those grounds it is difficult to argue or to prove that the UK is necessarily violating the *pacta sunt servanda*.

The choice of the High Court of empowering the SoSIT, by disregarding these issues, can be seen as ignorance and/or lack of clear investigation of the evidence. It also reflects a lack of confrontation from that subdivision of the judiciary that consciously or subconsciously has a reason of being, where the key material interests come into play, as will be seen better further below. Moreover, the 2017 decision and the 2019 appeal become instances that show the role of diverse actors seeking to balance the human rights and security relationship. They also expose an imbalance within the UK government balanced out by a multilayer response from within the state and specially from outside the state by non-state actor, CAAT. The 2019 appeal that CAAT fought for has, not only clear consequences for the possibility of stopping future licensing of arms exports and protecting human rights, but it gives NGOs greater power as agents in the implementation of instruments of International Humanitarian Law, like the Arms Trade Treaty. It empowers their role past the negotiation of such treaties in the earlier phase of the lifecycle of the norm (Finnemore and Sikkink, 1998), and into actual application and operation in the norm cascade phase. Despite most of their actions occurring domestically, their causality has international consequences, whether directly or indirectly.⁸⁴

In this light, CAAT can be seen as a *norm implementer*, one that acts within the state but as a local non-state independent actor. CAAT, as opposed to Control Arms, is a transformative type of NGO. As explored in chapter 5, transformative civil society organisations come from a Gramscian understanding of dependency or lack thereof of the organisation to the state. Jan Art Scholte meaning of transformative NGOs refers to: “those civil society associations that aim for a comprehensive change of the social order (whether in a progressive or a reactionary fashion)” (Scholte, 2002, p.284).⁸⁵ CAAT is a transformist because it seeks the end of the international trade of arms through stopping the procurement or export of arms where they might exacerbate conflict, through ending all government political and financial support for arms exports and through the promotion of progressive demilitarisation within arms producing countries, as stated in its website (CAAT, n.d.). Also interesting, as specified

⁸⁴ The empowerment has to be taken with caution as the next few paragraphs will detail.

⁸⁵ This definition had already been quoted on chapter 5. It is being recalled here for terms of full understanding of CAAT.

in its aims, is the fact that it considers that security needs be seen in “broader terms, not dominated by military and arms company interests”(CAAT, n.d.). Specifying this makes CAAT an organisation concretely pursuing a human rights and security view, where security is not only seen as related to the state or to securitization reasoning but also to human security and therefore human rights side. This makes CAAT an organisation that opposes the state and could have trouble achieving its goals, at least substantially. The role of CAAT in the High Court’s decision and the procedure that precedes it, is that of “a constructivist contextualisation of agents’ action within a formal causal context which is shaping the agents perception, thinking process and hence its role in the situation” (Kurki, 2006, p.212). This is understood by Milja Kurki, as coming from Koslowski and Kratochwil (1994). Kurki, Koslowski and Kratochwil, see the contextualisation of agents actions as referring mostly to states in world politics. What this case and this chapter are doing, is going farther from that understanding into seeing the agent as an NGO acting domestically but in favour of an international instrument (IHL and HRL, ATT included). It is also exposing the CMV nature of CAAT that includes radical and inclusive forms of global and local action, particularly local, in order to avoid embedding with militarism.

CAAT’s actions although domestic have causation internationally. Not only that, but the causation is also seen into the further layer of the human rights and security relationship. Because the actions surrounding the 2017 ruling and the 2019 appeal have endowed confrontational capabilities to the NGOs as an agent seeking a more balanced human rights and security relationship in the realm of arms control. Nevertheless, the empowerment that such organisations achieve with this has to be understood with caution. This because when comparing to chapter 5 it is difficult to decide which type of NGO achieves or has a greater chance of achieving change in favour of human rights in the human rights and security relationship. In chapter 5, Control Arms as a reformative international NGO has begun to achieve a certain amount of change, or at least has not been stopped from continuing to do so. In this chapter, CAAT as a transformist local NGO has sought definite change, achieved it but will continue to fight against a non-accepting SoSIT. Then, which type of NGO has a greater chance to reach farther? Certainly the transformative NGO has a greater chance of success, however the answer to this questions is that it depends. It depends on the case, on the topic and over all on where these issues are being developed. As will be seen in chapter 7, a local branch of an NGO, with government funding, has achieved more in concrete terms, than Control Arms or CAAT. It definitely depends on the context in which these actors are set in, more than that it also depends on the background and nexus of key material and moral interests that each case has. This, will be continued to be understood as this chapter and chapter 7 carry along and establish the nexus of moral and material interests.

Constitutive Causality of the 2017 High Court’s decision: use of international hard and soft law

Despite the 2019 win of the appeal, it is still relevant to understand where the 2017 decision came from, especially if the UK government intends to appeal and continues to sell arms. It is important to remember to take into consideration that the UK government is not unitary, however the decision made by the High Court is in fact only one decision and will therefore be analysed in this sense. Also, in the actual judgement of the Court and in the Claimant's original arguments, although the specific situation is put upon Liam Fox, the case is referred to as against the UK government. This subpart of the chapter continues with the deconstruction of the case that will lead to its reconstruction and full understanding by the end of the chapter. In terms of the High Court's decision, what stands behind is a complex set of interests and values that have probably been constructed since the start of the demise of the Great British Empire in the 19th Century and particularly since the acceptance of the fact that the US had become a higher power than the UK in the 20th Century. It is also directly related to the nexus of key interests, moral and material, that will be delved within the next subpart of this chapter. However, what is in the foreground is the UK, through the High Court, using instruments of international law to its advantage. This recalls an action that coincides with normative construction of UNSC Resolutions and a use of indirect soft power to feed the state's interests. As will be seen in this subpart, the High Court's decision is a clear example of constitutive causality (Lebow, 2009; Ruggie, 2002) and of the social processes, interactions and confluences that it entails, not only within the state actor itself but also in relation to non-state actors and to the international structure. In order to understand the sense of morality or lack thereof the UK in the High Court's decision, the union between constructivism and the English School is needed, much like Christian Reus-Smith claimed (2009) and how it was discussed in chapter 3. This is why, in English School terms, it will see the practice of the UK in 2017 as shaped by: (1) international norms: the ATT as hard international law and the UNSC Resolutions as soft international law, (2) international institutions: the UN and the UNSC and (3) with the morality of IHL and IHRL behind it (Dunne, 2011).⁸⁶ How these elements of the genealogical constitutive causality of the decision came into being have been explained above, like the ATT. Explained underneath, the UNSC Resolutions and the international institutions involved. Further explained in the next part of the chapter, the morality of the case.

The UN, the EU, the Gulf Cooperation Council (GCC)⁸⁷ and other Western states had been actively involved in Yemen since the Arab Spring in 2010. They came to the realisation that the Yemen regime, at the time, needed to be replaced to focus on counter terrorism. This was exemplified by the UNSC Resolution 2014 of 2011. The

⁸⁶ In Tim Dunne's work, *Inventing International Society the History of the English School* (1998), he elaborates on the claims that led Bull, Buzan, Butterfield and Vincent to include morality in the English School Equation. Particularly Bull and Vincent. Much reference is done to Realist, E.H. Carr and its intrusion of power. This has been mentioned in chapter 3 of this thesis.

⁸⁷ Members of the GCC are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. The GCC exists since 1981.

transition put President Hadi in power, while a UN Special Adviser stayed closed by. Transition led to war and the states through the UN decided to tackle it with Resolution 2216 (R2216). Such resolution, of the United Nations Security Council is based on Chapter VII of the UN Charter,⁸⁸ which means that not following it would lead to additional measures by the Council. Interestingly, the Resolution is specifically set as part of the background written by the High Court in its Approved Judgement(High Court of Justice, 2017a). The Resolution intends to stop Al-Qaida, and wants the Yemen Houthis to end all violence. With this, it recognises the intervention of the Saudi-led coalition and therefore excuses the UK for its arms exports and guidance to the Saudi air force. What is interesting here is that the UK is not the only state involved in what can be called the “formal excuse” known as R2216. In fact, UN Resolutions are considered international norms, part of the international soft law and considered binding under article 25 of the UN Charter. Like this, soft power is used in the shape of foreign policy within the UN arena (Keohane and Nye, 1977; Nye, 1990; Nye, 2004), by the involved states, by the UN and particularly by the UK to feed its arms exporting decision. It is clear that these set of UNSC Resolutions are favouring certain parts more than others and that they were perhaps created to fulfil certain interests of certain states in the region. What is observable is that the UK decided to carry on with these Resolutions that also solved political, economic and security conundrums domestically. This resembles what Kenneth Abbott and Duncan Snidal argued when stating that international actors choose to order their relations through international law and design treaties and other legal arrangements to solve specific substantive and political problems (Abbott and Snidal, 2000, p.421). This works both ways and alongside the dichotomy that the UK faces when implementing the ATT, and other international instruments, whilst continuing arms exports to an IHL violator. On one hand, the UK champions and pushes for the ATT, and on the other it helps design UNSC Resolutions 2014 and 2216 to upkeep with its security, economic and political interests. Whether the UK directly was the sole influencer of these Resolutions or not, the UK is a long standing member of the Security Council. This also shows that the UK’s High Court 2017 decision is contingent not only to local key interests but also to those of the states involved in the Yemen Crisis. In this sense, the High Court’s judgement represents a multilayer constitutive causality that goes beyond a two-level game and into a complex bouncing of commitments and interests to other states, other government dependencies, as well as other non-state actors, like the GCC.

The use of soft law, like the UN Resolutions, to attain goals can not only be viewed through an English School lens, where powerful states have greater control over international action. It also, has a rational institutional point of view, that “norms have real effects, resulting in a disjuncture between the distribution of power and benefits in the system” (Abbott and Snidal, 2000, p.448) and that “states use International Organisations to create social orderings appropriate to their pursuit of

⁸⁸ Chapter VII of the UN Charter refers to: Action with respect to threats to the peace, breaches of the peace, and acts of aggression (‘UN Charter’, 2016).

shared goals, by taking advantage of the centralization and independence of the organisations” (Abbott and Snidal, 1998). This view focuses on states within a society of states where world culture influences organisations and individuals as well as states (Boli and Thomas, 1999b; Finnemore, 1996), as mentioned in chapter 3. In other words, the use of soft international law as soft power to produce the outcomes that certain states want, in this case, hard power in the shape of the Yemen War. This combination of soft and hard power with soft and hard law leads to a sort of smart power (Nossel, 2004; Nye Jr, 2009).⁸⁹ It reminds us that in the decision of the High Court, international relations and international law are not coincidentally intertwined but constructed in an ever evolving fashion to influence the human rights and security relationship of the UK. Two different types of law, hard in the shape of ATT, and soft in the shape of UNSC R2014 and 2216 also exemplify a dichotomy of the High Court’s decision, as well as the continuous UK arms deals with Saudi Arabia.

Moral and Material interests constructed by state and non-state actors

The deconstruction of the High Court decision and appeal 2019 have even more depth than has been presented above, specially the initial decision of 2017. The nexus of moral and material interests, particularly those of the UK government present the case for further reasons to explain the specific human rights and security dynamics. Moral interests are complex, but as will be seen below they capture material interests. The same occurs the other way around. Set in the motion of circularity, throughout this next subparts of the chapter the complexity and over connection of diverse facets of the life of a large arm exporting state will be appreciated.

UK moral interest seeking compliance through civil society

At first glance, moral interests are what gives most of the reason for being to the human rights side of the human rights and security relationship in the case of the UK implementing the Arms Trade Treaty. Morality, whether derived from the UK government, like the Court of Appeal,⁹⁰ DfID, the House of Lords, the special advocates, the actual government in the championing of ATT, or from UK civil society institutions, like CAAT, pushes for human rights to be taken into consideration in the relationship. Morality is also in a constant battle for centre stage with other material interests, as was seen in chapter 5 and will be seen throughout this chapter’s section. Of course morality is a charged term and what is moral in one nation might be unmoral to another. The fact that the UK’s morality is somehow questioned in this subpart of the chapter, does not entail that other UK actions are necessarily void of

⁸⁹ The term “Smart power” has been attributed to both S. Nossel and J. Nye.

⁹⁰ It is important to mention that the Court of Appeal was “adjudicating purely on the basis of law, not morality” but the British government has a moral duty of restricting arms exports (Oppenheim, 2019).

morality. In this subpart of this chapter morality is used in relations to human rights awareness, support and protection; the moral carrier per excellence in the implementation of the ATT in the UK case are CAAT and the other organisations that brought the government to the High Court and Court of Appeal. Overall, the focus on the analysis of morality, has been allowed because of the CMV lens that this thesis has. Also, it addresses weaknesses in constructivist theory and in the concept of human security, as explained in chapter 1.

Morality has been present alongside security in many ways at least since Ancient Greece. It was not until the late 19th Century that the Geneva Conventions defined it within an international legal boundary. Domestically, within the UK, since the British Empire started its global conquest, there was resistance charged with moral fibre. This morality usually came from the religious officials who did not agree with the oppression of people. Today, it can be said that the majority of UK's morality lies in civil society if taking into consideration the result of the Appeal pushed for by CAAT. It also lays in certain institutions, like DfID, the House of Lords, the Court of Appeal itself or in certain individuals⁹¹ within the government. Indirectly even, Control Arms through the ATT Monitor yearly document is also supporting and enhancing the UK's and other countries' moral perspectives in the case of arms exports.

In the case of the ATT implementation, it is civil society organisations like CAAT that become the agents that challenge the government to enforce the morality through the absolute respect for human and humanitarian rights of the arms exports. CAAT, as a transformative NGO, taking the government to Courts is the greatest example. This does not mean that the UK government and its actions are completely void of morality as explained above. or that the people that work in it are as well. Also, export controls and all the legal instruments that have been created are based on human rights protection. However, these are at times used to the nations convenience but providing the mechanism to control, improve and verify the humanitarian morality of the state. Sometimes, suppliers may have concerns about human rights in a state and yet still sell arms because "they conclude that these arms won't exacerbate the problem" (Johnson and Willardson, 2018, p.2); like the High Court Judgment of 2017. Other times, because "different weapons have different likelihood of facilitating domestic repression, some exporters concerned with human rights may treat them differently" (Ibid.).⁹²

⁹¹ For example, it is widely known that Jeremy Corbyn Labour Party Leader has continuously challenged the current government in Parliament over morality (*Prime Minister's Questions: 7 March 2018 - News from Parliament*, 2018). Another example, in a recent interview with Ann Feltham, the Parliamentary Coordinator for CAAT she said the following: "civil servants agree with refusing arms export licensing, in fact I know from the Court Case that the head of arms export controls said that his gut was telling him that he should be refusing the arms export licencing " (Feltham, 2019)

⁹² Richard Johnson and Spencer Willardson (2018) analysed the arms export data from USA and major European exporters- Germany, France and the UK, between 1976 and 2009, and found that human rights violations do not prevent arms transfers from advanced industrialized democracies. The only

Domestic action, whether coming from government or civil society agents, influences the international actions a government takes, at least partly.⁹³ In global governance there are distinct authorities, and local NGOs seeking to influence state behaviour are one of them. Domestic politics and international relations are often entangled (Putnam, 1988), making reasons for change a combination of domestic, international and everything-in-between circumstances, as discussed in chapter 3 (Avant et al., 2010). This means that decision making stems from more than a two-level game (Putnam, 1988) and into a multilayer situation that is in constant deconstruction and reconstruction. NGOs, like CAAT, have a widespread direct and indirect agency to influence this multilayeredness not only in the creation of norms but also in their implementation. This is a matter of global governance being the result of constraints generated not only by structure but also by agents (Finnemore and Sikkink, 1998). CAAT is an example of how within its role of agent it is not only trying to influence structure but also trying to change the other agent's actions and aim to co-create full implementation.

Morality in this case has two sides, a moral one and a *falsely moral* one. The moral side, is CAAT's side, the Appeal's side and the other government facilitator's side which have been explained throughout. It could be said that CAAT's morality is Kantian in the sense that the morality of their actions derive from the action itself and not from the consequences that it might produce, as explained in chapter 2. The *false morality* side is that of the UK government, expressly the SoSIT and the High Court. The High Court decision claims that the SoSIT is following the carefully set plans to protect human rights when giving arms export licences. By saying this, the Court is implying that it believes that the actions of the government are truly moral. However, this morality is *falsely moral*. It is more a cynical expression of interests, as Carr says (Carr, 1945) or of using it in a Millian way as a means to an end as delved in chapter 2.⁹⁴ In a way, this is also the case of morality of the UK championing the ATT because material interests were also behind this decision. In fact, the UK giving way and championing the ATT is a further example of how states give rights but continue controlling the means of violence. Material interests are also behind CAAT's morality, however at least externally, these interests appear to not be economical or damaging the human rights side of the human rights and security relationship. At least in terms of funding, CAAT does not depend on governments and due to its transformative nature it focuses solely on achieving its main goals, morally.

exception is the United States, where it was found that when there are higher human rights violations there is a reduced chance of the state exporting (Johnson and Willardson, 2018).

⁹³ Other interests, like material interests also influence a state's action internationally, as will be seen further below and as was seen in the case of Control Arms previously. As a reminder, the combination of moral and material interests is what defines the particular overlap between human rights and security in the human rights and security relationship.

⁹⁴ False morality has been used already in chapter 5. For more information, refer to such chapter.

The degree of falsehood is not the same in all cases, like in comparison with chapter 5's case. In the case of the UK implementing the ATT, the level of falsehood in the 2017 decision results high, while in the 2019 appeal it becomes low. Besides CAAT, *mixed actors*, like DfID, the special advocates, and to a certain extent the House of Lords and other civil servants, play a role in reducing the falsehood. The actual compensation that these *mixed actors* give towards the human rights side of the human rights and security relationship is perhaps minimal. This leads to conclude that what enhances even more the implementation of the Treaty as well as the human rights and security relationship is not only what happens in the early lifecycle of a norm, but actually what happens in a later phase of internalization and therefore implementation of the norm.

In IR terms, CAAT's moral actions exemplify Keck and Sikkink's boomerang effect (1998), because they put national and international NGOs, social movements and networks as exerting pressure on the state from above and from below to bring change. These action are also characteristic of Risse et al's spiral model studied in chapter 3 (Risse et al., 1999; Risse et al., 2013). The phases in the model- repression, denial, tactical concession, prescriptive status and rule-consistent behaviour- work progressively by first exposing human rights violations. The 2017 High Court's decision is an example of the state failing to comply and setting its reasoning publicly and in a judicially legal way, all in the name of *false morality* and putting material interests first. The 2019 appeal is an example of the state complying with a push from a non-state organisation and aided directly and indirectly by actors within the state. Overall, both decisions imply the push and pull that the human rights and security relationship encounters within the strains of different actors.

Nexus of material interests collide: security, military, economics and politics

Given that the 2017 decision and the 2019 appeal, have happened during a Conservative government, it could be thought that with another party in the government this might have not occurred. It is difficult to speculate; however, it is not difficult to note that also Labour governments have kept the long tradition of arms sales to Saudi Arabia. For example, Prime Minister Tony Blair even stopped a corruption investigation into such arms sales claiming that: "Our relationship with Saudi Arabia is vitally important for our country in terms of counter-terrorism, in terms of the broader Middle East, in terms of helping in respect of Israel and Palestine; strategic interest comes first" (BBC News, 2006). What this means is that there is a clear pattern of dealings with the Kingdom of Saudi Arabia. It also signifies that there is much more behind the 2017 decision and the SoSIT decision to appeal the 2019 decision. All of this is influenced by several factors included within the nexus of key interests studied in this chapter, such as: economic, political, military/security. These interests are used and connected beyond Putnam's "two-level game" (Putnam, 1988) and more into a multilevel game. Statesmen, in Robert Putnam's words play a two-level game when representing the government's position, set between two tables,

the domestic tactics and the international negotiation (Evans et al., 1993; Putnam, 1988). What these decisions show is that governments go beyond domestic tactics, and international negotiation, they go into military/security strategies, economic and political domestic interests that affect how they deal internationally. Nationally, there are several key interests to be considered: political, economic and military/security. Together they compile by forming a nexus that defines the strategy of the UK's decisions and therefore the composition and overlap of the particular human rights and security relationship. Due to ever-changing positions, this strategy is in constant movement. However, certain basic aspects remain the same and give the relationship its peculiarity. Below, these key interests will be explained by understanding how they have been defined and how they conform the nexus leading to the human rights and security overlap. It will also become clear that there is a nexus within the different interests, like the definite relation between economic and security or the political and security connection.

Security/military interests and strategies are tangibly defined, usually, by certain white papers published by the government and by the position of governmental institutions such as the MoD. Changes in certain white papers define the UK's strategy in several areas, whether to deal with internal or external pressures and opportunities. For example, the National Security Strategy changes every 5 years, but it can have amendments in between. The latest document of this kind is from 2015, created under the Conservative and Liberal Democrat Coalition. In the forward of this document, the then Prime Minister David Cameron speaks of a link: "Our national security depends on our economic security, and vice versa; so the first step in our National Security Strategy is to ensure our economy is, and remains, strong" (HM Government, 2015). This clearly reflects the nexus between the economy, security, military and politics. It also paints a picture of where Britain wants to lead in security terms and how the connections with the economy define it, as will be continuously seen further down. This document was crafted not only with the ruling parties' interests in mind but as a reflection of the international arena of the time and the international forecast expected. All to allow for Britain to maintain its position in the international security environment. This position sprung particularly from the UK's role in defining international relations after the Cold War and leading European security policies. The Anglo-French Declaration at St. Malo in 1998 proposed that Europe's defence be handled through the EU. The key and leading role that the UK played in this proposition has allowed for its prominent position within the EU but also to seek to be a strong parallel to the United States. Key developments derived from this Declaration, like the appointment of Javier Solana as High Representative for Common Foreign and Security Policy and the formal establishment of European Security and Defence Policy (ESDP, or CSDP after the Lisbon Treaty). This has also resulted in a higher number of negotiations between the US, NATO and EU member states, which in theory means that the US and EU face military decisions together, because they share values that give strength to the institutions that form the core of their relationship. All of this was particularly led by the United Kingdom alongside

France and Germany. This triad of leaders is now changing and will change, at least in terms of European Institutions after Brexit. However, for now it still defines the British perspective on security where their labour runs parallel to the US, NATO, the EU without neglecting Britain's still somewhat nostalgic imperialistic ambition.

British security policy cannot be understood without the production and acquirement of weapons to fortify its military. Specially with the preamble of the ever influencing National Security Strategy 2015. This creates an economic sphere that has grown exponentially in the last decades within and outside the UK. In order to keep the weapons' market flowing, the demand for weapons needs to be kept at least stable. It is widely known that for the US, during and after the Cold War an ongoing involvement in conflict was a sure predictor of arms sales (Kinsella, 1995). In some ways, the UK is no different. The UK's arms exports needs not to be created by necessarily direct involvement in conflict, it can be an indirect one. Like the ongoing arms sales to the Kingdom of Saudi Arabia exacerbated and maintained by continuous arms deals. With this constant need for war, arms transfers represent behaviour both of the supplier, the UK, and the recipient, Saudi Arabia. This gives a sense that the concern of the UK of maintaining its military and security interests are connected with the economical ones, particularly in the context of the implementation or lack thereof of the Arms Trade Treaty. The state has the need for survival, in order to do this the state acquires or makes military equipment which lead to an economical phenomenon that defines domestic, national and international politics. Like a circle, politics define security, security defines economics, and so the circle starts again. This circle, is in line with a constitutive causality of sorts, whereas Lebow (2009) sets it explains causal chains. However, although these interests are well intertwined they are not necessarily defined solely by themselves, the morality aspect of the equation, represented by civil society and certain government facets.⁹⁵

In order to cover the needs for state socialization, a large arms exporter like the UK also involves politicians within other aspects of the nexus. There are several cases of involvement of politicians or government officials in arms companies and vice versa. These links have been well exposed by CAAT, but also by academics like Anna Stavrianakis (2012). Former Defence Secretaries Michael Portillo, George Robertson and Geoff Hoon, and former Defence Procurement Ministers Geoffrey Pattie and Jonathan Aitken, as well as a number of other MoD staff and senior military personnel, have moved to senior positions in major arms companies such as BAE Systems, Smiths and AgustaWestland after their time in public office (CAAT 2005 in (Stavrianakis, 2012, p. 228)). This also happens, the other way around, like arms companies having a significant presence on military advisory bodies such as the National Defence Industries Council (NDIC), through which industry works in partnership with government to set policy priorities (Ibid.). In fact, this is even set in government white

⁹⁵ The case of the UK lightly touches upon this connection, the case in the next chapter will delve more upon it.

papers, like the 2005 Defence Industrial Strategy that seeks to: “share objectives, risks and rewards” with the defence industry, in order to “maintain appropriate sovereignty and thereby protect our national sovereignty” (MoD 2005, p. 132 in (Stavrianakis, 2012, p. 229). Again, this demonstrates that the circle existing between the economic, political, military/security interests of the state is rich. What is not necessarily clear is which prevails, or which one has the most influence upon the others. Nonetheless, the common theme behind them is the survival of the state domestically and internationally.

Even though Britain promotes arms exports it has also for decades set humanitarian provisions within their policies, which connects the moral side with the material side of the nexus, at least with the *false moral* side. Internal Foreign and Commonwealth Office documents from the late 1970s took into consideration the potential aggressiveness and internal suppression of the potential customer (Johnson and Willardson, 2018). In the 1980s, guidelines stating that exports would be forbidden in case the state posed a threat to the UK, NATO or where human rights considerations were a barrier (Ibid.). Despite this, weapons were transferred to Iraq in the 1980s as they are transferred to Saudi Arabia today. The reasoning back then, similar as it is now, was that “Britain exports or dies” as David Mellor, Minister of State for Foreign and Commonwealth Affairs in Margaret Thatcher’s government stated in 1992 (Miller, 1996 in Ibid.). This stems from the fact that the British economy is heavily dependent on military sales. Similar reasoning is happening today. Due to the eminent exit of Britain from the EU, arms exports to countries outside the realm of NATO members have been exacerbated. Even, despite Britain’s ratification and championing of the ATT and other IHL instruments. This is no longer only speculation, but reality. In September 2017, Defence Secretary Michael Fallon speaking at the Defence and Security Equipment International (DSEI) event in London said: that the UK will “spread its wings across the world” with increased arms and equipment exports after Brexit and that it is time to build exportability with the alignment of what is required by international clients to hit new heights in promoting British manufacturing and international partnerships (The Independent, 2017). More recent, is the case of the visit of the Saudi Arabian prince in March 2018 that was branded as post-Brexit opportunity. However, besides the Brexit talk, Britain’s strong link between military and economics has been strong for decades, as will be seen in the next subpart of this chapter. Nonetheless, the fact that Brexit is used as an economical reason or excuse is an overstatement. Brexit does not only have the possibility of affecting the economy, but also the well cured space the UK has carved in the international hierarchy of states. Raising arms exports to non-Western countries has also the possibility of opening and preserving doors where the UK can influence international relations. This, again, creating a nexus between the material interests of economics, politics and security and influencing the particular overlap between human rights and security.

Why states export arms if they belong to IHL instruments like the ATT?

In a highly globalized, market-dependant world, exports enhance a state's economic capacity. In the case of certain powerful states, they also elevate and upkeep their strategical reasons, in order to fulfil their diverse interests. It is also true that in certain markets, exports become a sensitive subject and raise concerns in a normative sense. Why states export arms despite belonging, or even championing, humanitarian normative instruments, like the Arms Trade Treaty has and will be a complex question in the past, present and future. Nevertheless, whatever the answer it will demonstrate an ever-changing construction of the nexus of interests that shape each state's specific case. For this chapter and this thesis, this construct also influences the particular overlap between human rights and security. The reasons exposed below can be divided into: economic, strategic (including foreign policy, security and military), historical and sociological. They should also be seen holistically, like in the previous subpart of this chapter, in order to fully understand the connection between them as well as their constitutive causality.

There are two facts that are important to take into consideration in order to understand why states like the UK transfer weapons despite having signed IHL instruments, particularly in the last decades. First, different weapons may be more easily used to violate human rights in different scales. For example, the harm conventional weapons might do in an hour is not the same as what a bomb dropped by a fighter jet or drone might do in seconds. This is something that arms exporters like the UK take into consideration when analysing the human rights side of the arms export licensing equation. Richard Johnson and Spencer Willardson (2018) analyse the four major arms exporting countries by weapon type between 1976 and 2009. They wager that because some kinds of weapons systems are more likely to facilitate domestic repression, "exporters concerned with human rights may treat them differently when it comes to approving arms transfers" (Johnson and Willardson, 2018, p.2). The authors conclude that actually "human rights violations do not prevent arms transfers from advanced industrialized democracies" (Ibid.). The only exception, in the case of the US, is that "higher human rights violations reduce the likelihood of exporting land weapons to offending regimes" (ibid.). This means that the UK, at least until 2009, like the data shown in this study, had not restricted its export licensing due to human rights violations. Second, it is also important to note that recent studies found that democracies are 60 percent less likely to trade arms with autocracies than with democracies, particularly after the Cold War (Akerman and Seim, 2014; Johnson and Willardson, 2018). These results demonstrate that the security concerns during the Cold War were sufficiently strong to deter states from trading with states with differing polity and how it has changed since (Akerman and Seim, 2014). The finding

that polity has not mattered after the Cold War suggests that “democracies have not been as altruistic or ethical as they have claimed in recent years” (Ibid.).⁹⁶

Economic reasons carry a large weight when answering why countries, like the UK, export weapons despite belonging to IHL instruments. In the specific case of the UK, it has also to do with a particular nostalgia of better Empire times and the so called Pax Britannica that feeds upon British material interests, as will be seen further below. As put by economists, the initial momentum of arms exports was provided by strategic and political objectives that led to dependency and therefore to the creation of powerful economic lobby, despite the commercial logic of arms transfers (Smith et al., 1985). Governments subsidies for domestic producers and recipients desire to diversify have proved to be stronger than the high overhead costs for research and development that the industry entails (Ibid.). In other words, it is government forces, not market ones that drive the expansion and permanence of the weapons industry. Governments are interested in maintaining an indigenous arms industry in order to ensure: weapons designed exactly to their requirements, national independence of supply and access to the latest military technology (Ibid. 242). In the UK, for example, most equipment is designed for the UK Armed Forces, however, at strategic times weapons might be designed to fit the export markets, like the BAE Hawk and some Vickers Tanks (Hartley, 2000).

Internationalists have long studied arms transfer and outlined historical waves of arms transfer and production since the 15th Century (Krause, 1995). Recently these have shifted towards a focus on SALW and their structural effects on inter and intra state conflict, norms building and international relations (Bourne, 2007, 2013; Garcia, 2006; Grillot, Stapley, & Hanna, 2006; A. Stavrianakis, 2011). Economists and Internationalists alike have, with these studies, realised that despite the commonly held view that arms transfers are partly to blame for the frequency, duration and severity of armed conflict, there is no relationship between the two (As found by Craft, (Craft, 1999)). This acknowledges the element of truth in: “weapons do not make wars, men do” (Kinsella, 2011). It also relates well to the fact that it is governments in control of the weapon transfer industry, not the supply and demand. This is why governments, like the UK spend considerable amounts of money promoting arms exports in order to reduce the MoD’s defence procurement costs, for example. Stephen Martin analysed this in the 1990s and found that in the UK each job generated by arms exports is subsidised by just under £2,000 per annum and that a one-third reduction in UK defence exports would save the taxpayer some £76 million per annum at 1995 prices (Martin, 1999). Today, it is estimated that for export contracts direct subsidies for arms exports estimated to be between £104-£142 million (CAAT et al., 2016).

⁹⁶ This fact is also consistent with (Perkins and Neumayer, 2010) as will be seen a few paragraphs below.

Because of this supposed economic importance, the UK government, as was seen in the High Court decision of 2017, claims that arms transfers are in the best interests of the whole country. Although, the UK weapon industry is in fact one of the largest worldwide, almost all of the UK companies derive significant proportion of their turnover from their US subsidiaries (CAAT et al., 2016). In fact, in the case of BAE, Britain's largest arms export company, the US is the major costumer, with almost all sales coming from BAE's US operations, rather than exports from the UK (Ibid. p. 7). This suggests that the UK arms industry is not as big as it is led to believe by government officials. Turnover, without services, is estimated to be around 1% of GDP, where 45% comes from arms exports; thus, arms exports cannot be said to represent an important part of the UK economy or the UK's labour market (Ibid. p. 9). Perhaps, even the Brexit excuse that the government has come up with recently has in reality little to do with the actual state and economic significance of the UK arms industry.

So then, why does the UK export arms, if the economic reason is almost null? Furthermore, why does the UK provide more than hardware whilst reaching arms export agreements? A recent report by Mike Lewis and Katherine Templar (2018) has shed a light on the B side of the UK's arms exports to Saudi Arabia: its human component. The supply of services that come alongside the arms export do not require licenses or authorisation from the UK government. Besides UK military personnel, there is a massive human operation included under the terms of the agreements that Saudi Arabia and the UK have made. In fact, extracts from one of the secret agreements, signed in 1985 but still in force, show that "it includes a blanket commitment for UK personnel to remain available in Saudi Arabia for arming and support during active armed conflict, without reference to the conflict's authorisation or lawfulness" (Lewis and Templar, 2018, p.6). Lewis and Templar, estimate around 7000 employees UK contractor companies, UK civil servants and seconded UK military personnel, currently present in Saudi Arabia to support RSAF (Royal Saudi Arabia Airforce) and other Saudi security forces (Ibid.). These services are also void of any UK MoD guidance on reporting possible violations of International Humanitarian Law, contrasting with what the High Court decision of 2017 claims that UK arms export officials gauge IHL violation risk and that it cannot know how the RSAF is using UK weapons (Ibid. pp. 7, 25). Further to this, another more concrete human component has come recently into limelight. Over 40 Saudi cadets have been trained in British military colleges since 2015 (The Guardian Correspondent, 2019). The information was released by the MoD following the freedom of information act but the data on the cost of these trainings is not yet shared.

Strategically and in an International Relations theory argument, states seek to maintain their position within the hierarchy of states. Arms transfers provide the supplier with political leverage over the importer because they render the latter reliant on ordnance, maintenance, and spare parts; if these are withheld from the importer, then their weapon systems become less effective over time until they finally

become useless (Johnson and Willardson, 2018). In this sense, arms transfers give states like the UK, certain power over others as well as the upkeep of its status internationally. Is this then one of the reasons why the UK exports arms to human right violating states? Yes, and no. In 2005, Shannon Lindsey Blanton published a paper analysing the US's arms exports before and after the Cold War. Her findings indicated that during the Cold War human rights were not significant determinant of arms transfers as opposed to the post- Cold War period where democracy and human rights had an impact in determining the eligibility of a country to receive weapons (Blanton, 2005). Over a decade later, President Trump has, like the UK, also completed large arms deals with the Kingdom of Saudi Arabia despite the possible use of the weapons towards civilians in the Yemen conflict. The US case, is in some ways mirrored by the UK case exposed in this chapter. Similarly, both the US and the UK have signed the ATT, both have internal arms exports methods to analyse the recipient country and both are very large exporters of arms globally. Differently, the UK has ratified the ATT, even championed its creation and now has been pushed by a non-state actor to implement it properly. Both countries have a reputation and a place in the hierarchy of states to upkeep, however, the UK's position is rather weaker and therefore its actions towards endurance might be more radical, which is part of the reasoning behind the 2017 decision.

Blanton's results have been contested by Richard Perkins and Eric Neumayer (2010), who found that the same states in the period between 1992 and 2004 have not discriminated against human rights abusing or autocratic countries. Perkins and Neumayer expose how these countries self-declared to have had an ethical turn post-Cold War and are actually serving an organised hypocrisy of ongoing territorial egoism, serving the states' domestic, economic and security interests (Perkins and Neumayer, 2010). In this sense, is it true that there was a move towards prioritizing human rights? Is there a move away from it since 9/11? Actually, selling arms to countries after 9/11 continued and is suspected to be to combat the war on terror, particularly in the Middle East, where the UK has sold weapons not only to Saudi Arabia but to Turkey as well. In the before mention recent study by Johnson and Willardson, and in another one carried out by De Soysa and Midford it was found that human rights was insignificant statistically, making human rights consideration less important (De Soysa and Midford, 2012; Johnson and Willardson, 2018, p.10).⁹⁷ This also exemplifies that whilst security, may drive the decision, states also have a strategic reasoning behind the decision of their sales.

Also, in strategical terms, Jennifer Erickson (2015) argument of the desire to enhance their reputations as responsible citizens of the international community, shapes well

⁹⁷ De Soysa and Midford had a study made comparing the US and China in the post-Cold War era. They concluded: "China relative to the United States transfers greater amounts of arms to democracies rather than autocracies, whereas the United States seems to prefer more autocratic regimes, despite rhetoric that claims an ethical foreign policy"(De Soysa and Midford, 2012).

with why states strategically decide to export arms to human right violating countries.⁹⁸ She moves away from the defence industry and focuses on states compliance to keep scandals at bay. However, there is something more behind a state's strategy of choosing to export arms: history. History in the sense of nostalgia of the Empire in the case of the UK. In the decades following the demise of World War II, the UK came to the realisation that economic levels in West Germany and France had become stronger than British ones. Michael Kenny and Nick Pearce claim that this relative economic decline prompted Britain to turn decisively towards Europe but also to rethink their global ambitions (Kenny and Pearce, 2018). It also exposed Britain's global defence commitments, which in 1965 stood at 7 percent of the GDP (Ibid. p. 79). The government made the decision to reduce defence spending in Suez, Malaysia and Singapore, and although Britain remained a nuclear power and a permanent member of the UN Security Council, its military world island role had come to an end along with its great power status (Ibid., pp. 79–83). It is no coincidence that these were the years when the UK started arms export agreements with Saudi Arabia. Perhaps, with sense of grasping the straws of the long gone Pax Britannica. Strategically speaking, this move heavily influenced by the past also affected Britain's future. Like a snowball, a certain economic downfall, led to a security and militarization one, which took Britain's interests into new places, like Saudi Arabia. Like this, today, what started in the 1960s has constructed and is now engrained in British strategy that has somewhat a mind of its own with the birth and strengthening of lobbying groups, subsidies and further deals with Saudi Arabia and other countries. And with a history of over six decades has gotten more and more complicated but has also, to the eyes of the British government, fostered a new international position for the UK. Today, this is largely the reasoning behind the 2017 High Court's decision and the SoSIT's decision to appeal the 2019 decision.

The different dimensions afore mentioned, strategic, historical and economic, have different effects on the state's decision to continue arms deals with human rights violating countries. They also depend on the interactions the state makes because and for them. David Kinsella has theorized on this and has come to conclude that: "as a transfer of military capability, weapons shipments increase the tendency of the recipient to strike a conflictual posture in its foreign policy, while arms transfer dependence restrains that tendency" (1998). This, of course, in a Post Cold War world. However, arms transfers have either a positive or negative impact on the stability of the importing region and on the stability- be it economic, strategic or political- of the exporting state. Not only that, but they signify the degree of dependence. Is this dependence of the importing or of the exporting party? In the case of the UK, the British state explicitly says that it depends upon the sales of weapons to Saudi Arabia because of the supposed weight they have on the local economy. Implicitly it also

⁹⁸ This argument is explained in chapter 4 when taking about why states accepted ATT. Earlier in this chapter, it was explained why the UK accepted and even supported ATT during and after the negotiation.

depends on them for continuing its dying imperialistic role in the international scene. On the other hand, Saudi Arabia, depends on British weapons to carry on their own regional interests. So then, which state depends more on the arms transfer? The dependence is a function of the extent to which the state must rely on them (Ibid.). Kinsella, claims that dependence seems to restrain the impulse the importer has to engage on conflictual foreign policy behaviour, however, in the specific case of the UK and Saudi Arabia it seems that the importers dependence on arms actually exacerbates its conflictual behaviour, even leading to human rights violations. Nevertheless, it is interesting the evident connection or dependence of not only the importers international actions but especially those of the exporter, like in the UK case.

The reason or reasons behind why states, like the UK, export arms despite being aware of human rights violations that these weapons might do, is a strategic construct influenced by the nexus of key interests. In detail it has most likely been formed, like a snowball, from the relative economic decline in the 1960s that led the UK to seek improvements in its economy by, among other things, reaching arms agreements with Saudi Arabia. The situation, influenced by a historical sense of nostalgia of the empire took a mind of its own incrementing lobbying groups, subsidies, further deals and of course a set of strategical reasons that pursued a heightened sense of security and military response that fulfilled national and international politics alike. The recent pressure felt by what Brexit might do to the key interests has also meant that Britain continues to grasp at straws to maintain their role in Europe, with the US and NATO, and of course its place in internationally. These reasons allow to further understand the particular case of the UK's human rights and security relationship and how they come from the past but are also continuously constructed by the present and the concerns for the future.

Particular overlap of human rights and security relationship of the UK

The nexus of key interests, moral and material, are what largely define the constructivist human rights and security relationship. As has been seen throughout the chapter, but in particular in the second part of it, the interests tend to be interconnected and influence each other in diverse ways. The weight of history is also felt, particularly when aiming to understand why states, like the UK, export arms despite having signed, ratified and championed international treaties like the ATT. All these reasons amalgamate to create a particular human rights and security relationship. The key interests of the state in question are without a doubt key, however due to the nature of how the implementation of the ATT has been evolving in the UK other actors' interests, like CAAT's are also significant.

Characteristics of the human rights and security relationship today

Although the High Court decision of 2017 and the 2019 appeal, do not specifically revolve solely around the Arms Trade Treaty, they denote the implementation of it. Several NGOs are on the limelight in this case, but in particular CAAT, as the leader in the call for judgement from the High Court and appeal on the case for weapons sales to Saudi Arabia. Through this, CAAT becomes carrier of the human rights distancing from the classic understanding where only state actors can be so. It also exemplifies actors that, distancing from human security notions and in a CMV sense, do not consider embedded militarism and actually promote cultures of peace in a global and local manner. The scope of the NGOs will in the implementation of the ATT in this case is still in some way contingent to the state's will, especially when considering that the state will appeal the 2019 decision. However, this organisation's actions are examples of the agency that non-state actors, particularly transformative ones, have managed to achieve in order to reach a certain degree of influence. CAAT's agency in this case is direct, whilst in the case of chapter 5, Control Arms and ATT Monitor have a less direct role. This does not mean, necessarily, that the state has lost full or partial agency. If anything, this has made the state aim to push further to defend their interests. This dynamic, involving the nexus of key interests from the state and the human rights interests of the non-state actor, is impacting the later phase of the norm and therefore the relationship between human rights and security.

Like this, the agents have allowed for human rights to permeate security, but also for security to permeate into human rights. This is nothing new, philosophically, as was seen in chapter 2, the role of nations and the political community in making the rights real and tangible can be seen through the study of the universality of rights, Kant's liberalism and Rawls' Law of the Peoples. The continuous constructive role of agents in the implementation of the ATT, is just one of the latest examples of the evolution of how security entered society tied up to human rights since the birth of the contemporary relationship between human rights and security in the late 19th Century. Agents, in this case the UK and CAAT, are not norm entrepreneurs anymore due to the advanced phase of the norm cycle. However, they become *norm implementers* and their duties, whether in pro or con of the norm, construct the further definition and fulfilment of the norm. *Mixed actors* can also be *norm implementers* to a lesser and perhaps indirect extent, like DfID or the special advocates. They also reduce the falsehood of the *false morality* that the state carries. The causality of the High Court's decision 2017 and the 2019 appeal can be seen as empowering for agents, like CAAT. This has allowed for their actions to acquire more importance domestically and internationally.⁹⁹ As seen theoretically in chapter 3, these agents are subject to constant change and are driven by constraints that go further than Putnam's two level game into a multilevel game defined by the nexus of key interests that have been explained throughout this chapter. Their actions, or norm implementation dynamics are domestic but with international constitutive causality

⁹⁹ Under the next subtitle, the international importance will become apparent.

that seek to impact the structure. This chapter has demonstrated that through a nexus of moral and material interests, the dynamics between state and non-state actors impact the implementation of the ATT. Also, similar to the boomerang effect (Keck and Sikkink, 1998), they exert pressure from below to have constitutive causality over the ATT and therefore over the specific human rights and security overlap for this case.


CAAT, as a transformative NGO seeking comprehensive change through the abolition of the Arms Trade has achieved change through diverse activities that take into consideration the power structure that has been built around the dynamics between state and non-state actors and between the norm implementing dynamics, particularly in this case for the international human rights and humanitarian law dedicated to the control of arms. CAAT through years of experience has understood the power structure and due to its financial independence has been able to focus on aspects of change that Control Arms have not been able to use. CAAT has built its efficacy through campaigning, whether online via twitter, webpage or email, offline via weekly, monthly and occasional demonstrations, meetings and events with their followers and the general public. It has built networks with universities to enlarge its campaigning, as well as alliances with other organisations like AI, Oxfam and HRW. As part of their activities, petitions and constituency campaigning have been used to influence MPs from below. The research within the organisation and its use to share on websites, social media has further enhanced advocacy and increase the precision of campaigning. Through this plus the work with Leigh Day and other law officers, like the special advocates, CAAT has been able to continue chipping away into their defined moral and material interests in particular to ensuring the full implementation of instruments of IHL and IHRL like the ATT. Their perspective on change and on the activities used to achieve it can be reflected on Figure 2: the human rights and security relationship.

Figure 2 visually represents and summarizes the key interests discussed throughout this chapter that define the particular overlap between human rights and security in the UK today.¹⁰⁰ It is purposely divided to highlight the state's key interests. Such interests represent the state, but also how its contingent to other states and international organisations. They also denote the *false morality*, that despite the negative connotations of its name, influences both the security and human rights side of the conundrum as well as aiding in improving weaknesses in the constructivist theory. The key interests of the NGO mainly indicate those of CAAT due to its leadership role in the judicial review of 2017 and the 2019 appeal. CAAT, as mentioned before, is a transformative NGO that seeks a comprehensive change of society, like the abolition of the international arms trade because it undermines human rights, security and economic development (Scholte, 2002; Stavrianakis,

¹⁰⁰ History is not considered as an actual interest, but should be kept in mind as a definitive author of the reason for being of certain interests.

2013). Both the interests of the UK and CAAT are injected into either/or the security and human rights side of the overlap equating to a slightly larger security circle and a smaller human rights one with somewhat of an overlap amongst the two. The HR circle does not yet have a full circle, due to the fact that the UK government will still appeal the 2019 decision as well as due to the weight of the nexus of moral and material interests. This overlap, allows to conclude that even though moral interests have a definite say, at times this morality is false and therefore material interests can prevail. This finding coincides, not only with the hypothesis of this thesis, but also with the views of recent arms trade regulation scholarship, where arms exports regimes are usually seen as moral, but with a taste of controlling the means of violence (Cooper, 2011; Cooper and Mutimer, 2011; Hansen, 2016). The complexity and contingency of the human rights and security relationship is an example of the contingency as core of constructivism (Kessler, 2016) and as co-constitution of societies (Onuf, 2012; Onuf, 2009).

Figure 2

The human rights and security relationship of the UK and CAAT High Court Decision 2017 and Appeal 2019	
Overlap defined by moral and material key interests of:	
Domestic Non State Actor CAAT	UK
Moral Abolition of Arms Trade as underminer of HR. Full implementation of instruments of IHL/IHRL: ATT, European Code of Conduct, UN charter, etc Political/Status Maintenance of it	Economic Brexit, Arms Industry, deals with other states Political Domestic: Conservative Strategy, Imperial Shadow. International compliance with: USA, NATO, UNSC R2216, other states involved in Yemeni conflict. Security (Military) Brexit, USA relation, Strategic, Arms Industry, Imperial Shadow False Morality Championing ATT negotiation, High Court Decision 2017 Morality (of mixed state and non-state actors) 2019 Appeal, DfID-Oxfam and special advocates
	

Implications for future ATT implementation locally and globally

The case of the UK and the particular nexus of moral and material interests, exemplifies how HAC (humanitarian arms control) have generated norms with moral aspirations thwarted by state's particularistic national security interests (Wisotski,

2010).¹⁰¹ Particularly, this chapter shows that this has gone further than the creation of the norm, but continues to influence the implementation of it. Because of the special characteristics of ATT, particularly its enforcement mechanisms or lack thereof, state and non-state actor activity has been crucial to the Treaty's fulfilment. The only official mechanism, reporting, to date is not yet proven trustworthy. Therefore, action from member parties and in this case of non-state actors involved in the domestic issues of a member party also explain the construct of treaty implementation. Particularly, since the UK was a vital supporter for the Treaty in its negotiation, its role in the implementation is central.

Essentially, CAATs actions and the result of the appeal, empower the role of the organisation as well as the norm implementation dynamics of the Treaty. Despite the fact that since July 2020 the UK government has decidedly continued arms sales to Saudi Arabia, the July 2019 win did set a legal precedent for further non-compliance of the ATT and other IHL/IHRL instruments within the UK. In fact, a few days after the Trade Secretary announced (Parliament, 2019) that arms sales to Saudi Arabia were going to be suspended pending the Government's appeal to the appeal, the ban was extended to United Arab Emirates, Egypt, Bahrain and Kuwait, and refers to weapons or military equipment that could be used in the war for human rights violations (Department for International Trade, 2019). The extension of the ban, further to adherence towards the ATT and other international instruments, placed CAATs actions indirectly as influence in the decrease of weapons and military equipment used within the Yemen conflict and therefore a decrease in the possible violations of human rights within the region. However, since autumn 2019 and particularly in summer 2020, with the UK governments continued sales and violation of the 2019 Appeal, these wins were in practice only temporary. It remains to be seen how the issue will develop, CAAT and their solicitors Leigh Day, are carefully considering the government's decision and have publicly condemned the new licenses approved. What this means for the human rights and security relationship is that much like the core of constructivist theory (Kessler, 2016) it is contingent to actors changes and circumstances. This is an example of the every-changing nature of the relationship and of how norms, or the adherence to them, are used as a method to control this contingency (Onuf, 2009).

Conclusion

As has been explained throughout this thesis, but in particular in chapters 2 and 3, the concepts of human rights and security are seen by many as separate entities and therefore incomparable. However, security and human rights are deeply intertwined and have been perhaps even since their origins, like the similitude between the concepts of security and safety. In International Law, security norms are human rights norms; humanitarian norms. In International Relations theory, the

¹⁰¹ See more on HAC in chapter 3.

concepts do overlap and are continuously constructed by actors and circumstances surrounding them. In constructivism, norms have actually been used as a solution to the ever-changing and contingent nature of the theory.

Empirically, through a genealogical understanding that has problematized the constructivist human rights and security relationship of the case, this chapter of the UK and the implementation of the ATT allows to recognise further constituted causalities of the actors involved, of the treaty and its norm phases and of the consequences of its current construct. This despite the fact that, although it has only been a few years since the start of the Arms Trade Treaty, the case of the UK selling arms to Saudi Arabia is already a case of a broken implementation of the Treaty. Even more so, the High Court decision of 2017, brought by the demand of CAAT and several other NGOs. The 2017 decision and the win of 2019 have become instances that show the diverse roles of actors seeking to balance the human rights and security relationship. It has empowered NGOs role past the negotiation phase of the norm and into actual application and operation. CAAT's actions reside in multiple levels, by acting domestically in favour of IHL and HRL and seeking international change, whether conscious of it or not. CAAT, as a transformative NGO is then seen as a *norm implementer*, that acts within the state boundaries as a local non-state independent actor with inspiration and impact internationally. In the UK government, there is a glimpse of norm implementation, fair norm implementation, and not the supposed implementation that the SoSIT and the High Court claim to have. This lies in the Court of Appeal, DfID, and the special advocates. Specially, DfID and the special advocates become *mixed actors* that can be carriers of morality and human rights as well as in an indirect manner *norm implementers*.¹⁰² In this sense, the 2017 decision becomes a clear example of constitutive causality, where the practice of the UK is shaped by: (1) the state using international hard law norms, the ATT, and international soft law norms, the UNSC R216; (2) the state taking advantage of the centralization and independence of international organisations, the UN and UNSC; and (3) by the state having the morality of the ATT, and IHL and IHRL behind it. The UK's practice speaks also of a combination of soft and hard power with soft and hard law that leads to a sort of smart power (Nossel, 2004; Nye Jr, 2009).

The constructivist complexity that the norm implementers face in this case has been an example of how far non-state actors, or other types of actors as represented here, have come since they were first studied in IR (Finnemore and Sikkink, 1998; Keck and Sikkink, 1998; Price, 1998). Also on how their role has evolved within the different phases of the norm lifecycle (Keck and Sikkink, 1998; Boli and Thomas, 1999a; Price, 2003), beyond entrepreneurship and compliance of human rights regimes (Risse et

¹⁰² In this case, Oxfam although a reformatory NGO, it does not have centre stage in the judicial procedure. DfID, does not have centre stage, however it represents a rare finding within the government institutions that tangibly support the human rights side of the human rights and security relationship. As in chapter 5 and 7, this is a reflection of the multilayered nature of norm dynamics as well as of the semi permeated boundaries of the state and non-state actors.

al., 1999; Risse et al., 2013; Garcia, 2011) and further into arms control. This has allowed for the role of a unique *norm implementer* to emerge and to further understand how the state's decisions have been constructed.

Why the state reached the 2017 High Court's decision, and is seeking to appeal the 2019 appeal is constructed by the nexus of material and moral interests that give shape to the UK's implementation of the ATT and therefore the human rights and security relationship. Moral interests, in this case, are derived from the UK, but also from CAAT's involvement in the implementation of arms control. Both the government and civil society become agents that have the power of constitutive causality in defining reality of national and international morality. Moral interests are not the sole owners of the human rights side of the relationship, just like material interests are not completely void of morality. In fact, the UK has used material interests in the name of moral ones, which is more a *false morality*. This term has been used previously on the Control Arms case, and will also resonate with the Norwegian case on chapter 7. What the 2017 High Court's decision and the UK's *false morality*, combined with the 2019 appeal and CAAT's morality enhance more the human rights and security relationship and exemplifies that what happens in the later part of the lifecycle of the norm, crucial for norm fulfilment or lack thereof. Furthermore, what the UK's morality, or lack thereof demonstrates is that states continue to give rights, through *false morality*, in an effort to controlling the means of violence. States give these rights to others, but also to themselves through mixed actors, as has been seen throughout this case.

Morality, or *false morality*, particularly in the case of the UK government has a connection with material interests, just like in between these interests there is a correlation as well. The government's National Security Strategy even claims how national security depends on economic security and vice versa. In a circular fashion all interests somehow define each other, without it being clear which one prevails. Depending on the characteristics of the time, it may lead to believe that perhaps all material interests are steered by security priorities. However, in Brexit times the interests of up keeping the economic, and strategical interests of the country are perhaps more important. This conundrum is better defined when finding the answer for why states export arms despite belonging to humanitarian normative instruments, like the ATT. This answer, entails not only moral and material interests but other circumstantial and structural characteristics that play a defining role. It also, demonstrates an ever-changing construction in the nexus of economic, strategic (including foreign policy, security and military), historical and sociological interests. Arms transfers give states political leverage, and certain power to keep its status internationally. This comes from a historical sense of nostalgia of the Empire with a sense of grasping the straws of the long gone Pax Britannica. Arms transfers to Saudi Arabia started in the 1960s influenced like a snowball, first by a certain economic downfall, that led to security and militarization strategy. These interests have been changing and constructing the now engrained British strategy that has achieved a

mind of its own with the birth and strengthening of lobbying groups, subsidies and further deals with Saudi Arabia and other countries. Like this, today, the British state explicitly says that it depends upon the sales of weapons to Saudi Arabia because of the supposed weight they have on the local economy. Implicitly it also depends on them for continuing its dying imperialistic role in the international scene. Then, the reason or reasons behind why states, like the UK, export arms despite being aware of human rights violations that these weapons might do, is a strategic construct influenced by the nexus of key interests. Morality and its focus have been possible due to the CMV lens that this thesis has aimed to achieve in order to showcase what actors do to promote cultures of peace in a global and local manner.

The particular overlap of the implementation of the ATT in the UK exemplifies the constant constitutive causality of the nexus of material and moral interests that the agents involved suffer throughout. It has more importantly found that the role of agents, governmental or non-governmental is plagued with a genealogy of characteristics defined over time and ever fluctuating to adapt to the economic, strategic, security and political standards. The nexus between these interests are what largely defines the particular security and human rights relationship, by injecting into either the human rights, security or both sides of the situation. An important finding of this chapter has been that due to the *false morality* of the state, the moral role of civil society is ever more important. Giving civil society a stronger sense of agency, past the negotiation phase of the norm, but making it a crucial moderator in the implementation of the norm domestically with international effects. Like this, the so called *norm implementers* through norm implementation dynamics have constitutive causality defined by the nexus of material and moral interests that act domestically to achieve internationally. Their actions seek to causally constitute the ATT implementation and therefore over the specific human rights and security overlap of the case of a large arms exporting state. *Norm implementers*, are also an example of the continuous actions made to give rights and avoid the control of the means of violence. CAAT demonstrates that, despite the UK's interests being in preponderance and the continuing sales of weapons, there is a certain erosion of state dominance over all things security through the win of summer 2019. This continues to provide strength to the hypothesis of this thesis by giving rights, through *false morality*, whilst controlling the means of violence.

Chapter 7- Norway's state and non-state actors pursuing the halt of arms exports to Arab states

Introduction

As the number of Arms Trade Treaty members grow, higher is the responsibility of already member party states to comply with the Treaty's precepts. The ATT evolution is not contingent only to Treaty's actions or yearly collective efforts of improvement of its principles. It is particularly reliant on the correct implementation, even despite arms export control violations. In this sense, domestic policies related to arms control have a direct impact globally, they also construct the future actions of similar actors and adjacent mechanisms. Norway, highly recognized for its moral peace engagement internationally and its advanced domestic strategies, becomes a key actor in this ATT realm. Although not one of the larger arms exporters, its policies and its worldwide peacemaker and peacebuilding reputation, give it a particular set of causes that reflect upon an almost parity between human rights and security. Norway's involvement with regional and international institutions are what gives it its particularity for this case. In the same way, its security, foreign policy and military strategies are fed by such commitments. As a non-EU member that follows EU security standards and position in arms control, keen NATO member, UN protecting and top ten wealthiest state, its international posture carries great weight in the region and with the countries it interacts. This, coupled with a precise view on management of non-state actors is another reason as to why Norway case creates an important example for this thesis.

Practically, recent data estimates that Norway's total value of defence-related exports 2017 was approximately NOK 6.3 billion (USD 773 million), which signifies a rise of 33% compared to 2016 (Ministry of Foreign Affairs, 2018). Exports have been increasing since 2014, mainly due to investments in new technology development and to large sales of military equipment to Saudi Arabia, United Arab Emirates, Qatar, Kuwait, Oman and Poland. In 2015, Norway sold military equipment for USD 139 million to Saudi Arabia, United Arab Emirates, Qatar and Kuwait.¹⁰³ Today, arms export licences have been revoked to most of this countries, in the search for a protection of human rights in the Yemen conflict. Globally, these revocations have put Norway at the forefront of the Arms Trade Treaty implementation and are setting an example for further arms export violators. Locally, it has entailed a multilevel game of actors and actions that are influenced by a peace discourse born over a hundred years ago.

¹⁰³ These are the countries whose exports licenses are being rejected (TNP, 2017). Oman and Poland represent most of the 33% increase of 2017 (Ministry of Foreign Affairs, 2018). Oman is an interesting buyer, as it is one of Saudi Arabia's main allies and is also widely known to be a human rights offender domestically.

The genealogical analytical framework and the causal construction of these activities will draw attention to the nexus of key interests that actors involved have. As these actors construct and are constructed by global and local mechanisms and social interactions, the intricate intertwined set of reasons becomes apparent. This is what the case of Norway and the halt of sales to Saudi Arabia and United Arab Emirates, will exemplify. This chapter, like previous chapters, will be using genealogy linked to constitutive causality with the aim of capturing the social processes, interaction and accidents of the case (Lebow, 2009). Like its counterparts, this chapter will deconstruct in order to construct and understand a significant human rights and security relationship problematized by a genealogical framework of analysis. Specifically, this case will show the implications of how a diverse composition of actors, actions, and the background of both conclude in a particular overlap of the constructivist human rights and security relationship. Norway's peculiarities are what will be explained in this chapter and directly and indirectly co-related to the vision of giving rights while still controlling the means of violence by focusing on actors that seek to lower the embedded militarism of the Treaty implementation through global and local actions to promote cultures of peace. The first subpart of this Chapter will focus on the analysis of the implementation of the ATT, whilst explaining the issue or issues involved. To do so, its military strategy will be elucidated and the role of *within-state actors* will be introduced. The second subpart of this chapter will centre upon Norway's identity based on peace and status seeking. It will explain the Norwegian Model and how it is all reflected upon Norway's interests. Finally, it will finish with the collision of moral and material interests influencing the parity between human rights and security in the human rights and security relationship. The analysis of morality will address the weaknesses of constructivism. The final subpart of this chapter concentrates on the particular overlap that the set case has created for the human rights and security relationship. This overlap will be represented visually, in order to summarize the actors and the key nexus of interests that each one brings to the table. Finally, this part will also explain the constitutively causal implication of this overlap locally and globally over the ATT.

All of this will stem from the theoretical background elucidated in the theory chapters of this thesis. With this, seeking to aid in the weaknesses of constructivism through the analysis of morality and also to contribute the ever growing literature on the role of non-state actors in the later phases of a norm particularly in arms control regimes (Garcia, 2011; Mathur, 2011), beyond contemporary arms control, humanitarian arms control (Greene, 2010; Hynek, 2007; Wisotzki, 2010; Cooper, 2011) and humanitarian disarmament (Borrie, 2009; Borrie and Randin, 2006; Krause, 2011; Cooper, 2011). Also, understanding how governments have been seeking to work together with civil society (Axworthy, 2001) within an international scene with a broad range of actors seeking mutual constitutivity of agency and structure (Wendt, 1987) that coincides with ethical conduct (Reus-Smit, 2002), with non-state actors working beyond their boundaries (Anheier et al., 2005) to influence norms (Chandler, 2004b; Chandler,

2004a) and with the interactions between actors and everything in between them (Avant et al., 2010).

ATT implementation in Norway led by actors outside and within the state

For international standards, Norway meets and surpasses exports controls, it was one of the first countries to support the Arms Trade Treaty and has proven its successful implementation by the rejection of countless export licences in the last few years. However, for internal standards, the non-governing opposition continuously confronts the government because of the ongoing interest in the exports to Middle Eastern Countries. A coalition led by the, political opposition, the Socialist Left Party (SV) has been pushing for tighter controls and for more checks and balances to prevent Norwegian weapons and munitions from being used in crisis like Yemen. The SV, according to SV lawmaker and member of the Parliamentary Committee, Petter Eide, claimed that Norwegian controls are not as tight as they seem since the Ministry of Foreign Affairs is not truly able to say if their weapons are being used in such conflicts (O'Dwyer, 2017). Nevertheless, some recent arms deals, like the ones to United Arab Emirates and Saudi Arabia, have been stopped and ideally, the SV, would like to ban all sales to the Saudi led coalition fighting in Yemen, including Oman.¹⁰⁴

The disagreement between the conservative government and the SV will continue, also because the three main military companies, Kongsberg Defense, AIM Norway and Nammo, are partially owned by the government. The Norwegian government's open interests in the military industry gives it a peculiar sense as well as a particular twist to the role the state actors and non-state actors play in arms control dynamics and therefore in the human rights and security relationship. State actors and non-state actor's limits become easily undefined, for non-state actors like the military companies are in fact state actors. In other cases, the collusion between the military industry and the state exists, but it is not as open as in Norway where stipulations of this are written all over White Papers, as will be seen below. Further than that, Norway has an endless approach to openly managing and financially supporting diverse non-state actors, that will also be discussed in detail further below.

Norway's military and security strategies: union or division between human rights and security

When understanding why Norway stopped selling arms to certain Middle Eastern countries, it is first important to analyse Norway's particular military and

¹⁰⁴ Oman might not be openly involved in the Yemen conflict; however, it is an authoritarian regime that has been known for human rights violations. The arms deal with Oman is actually the largest in the history of Norway. It was signed in 2014, but finally happened in 2017. The Green Party has actually claimed that the sale is unforgivable and that this is a clear violation of the arms exports control from the part of the Minister of Foreign Affairs (Wijnen, 2018).

security strategy. This, in the search for an understanding of the construction of the conundrum of a so called peace seeking nation but with a rather robust and well organised security strategy and industry. The human rights and security relationship of Norway will be clearly reflected in this conundrum, and its defence strategy will help elucidate the security and even the human rights sides of the relationship. White Papers and other governmental documents, are the best example to further analyse Norway's strategy, as they are plagued with representations of the push and pull between human rights and security. As will be seen next, at times, security's preponderance is easily identifiable. However, Norway's history and experience has led it to seek means of controlling the overspread of security over human rights, that will also be seen throughout this Chapter.

According to the 2015-2016 White Paper on the National Defence Industry Strategy (Forsvarsdepartementet, 2015a), Norway is concerned with having independence, military preparedness of their own and most importantly national freedom of action, despite the importance of NATO in its security policy.¹⁰⁵ Throughout the Paper, the reasons behind Norway's need to create and export arms can be easily understood. It is grasped that the state is aware that although Norway's addition to NATO and close links with the European Union are robust, the state must avoid an addiction to a foreign supplier in order to avoid an impact on national security and their national freedom of action. The White Paper, is very specific in this as it considers it unacceptable. Preparedness prevails and behind it the reflection of the government's direct and open involvement with the defence industry. Because the national defence industry is considered to be strongly linked to national security needs, such White Papers are in constant evolution to support both the industry, the armed forces and therefore the state. The government's involvement is not only through exposed and written consideration of the military industry, but also throughout marketing and industrial cooperation, as it is exalted in this and other government documents (Forsvarsdepartement, 2018). In fact, Innovation Norway, the government's instrument for innovation and development, assists Norwegian military companies through consulting, competence services and network access all over the world. These tasks can be also carried out by the foreign affairs service if necessary. The state is also aware that the success of the link between the defence officials and the defence industry needs to be maintained, otherwise it can quickly deteriorate. This makes for a well coordinated military industry, with partial ownership and leadership from the state.

What can be understood between the lines, and in the lines as well, of Norway's official documents, is that there is a need to sell arms triggered by diverse internal

¹⁰⁵This White Paper is found in Norwegian in: <https://www.regjeringen.no/no/dokumenter/meld.-st.-9-20152016/id2459606/sec3>. For purposes of this chapter, the appropriate parts were unofficially translated into English in Google Translate.

and external reasons. Different from the UK and other cases, the economic end is not used as an argument, at least not explicitly. Nevertheless, it can be understood that it is in the state's best interest to have a strong military industry. It is not clear in these Papers how selling arms makes the industry robust, but it is clear that there are interests in maintaining the industry in order to continue developing their own military equipment to be safe within their security needs. In the Papers, the explicit reasons behind the protection of arms sales rely elsewhere. Externally, Norway reacts to the fact that after the Cold War, the international defence industry changed and the number of arms providers fell. Furthermore, it is responding to current international characteristics where transnational cooperation has not increased as expected and therefore the search for new markets has become key. Globalization has also changed the setting by bringing new suppliers from Asia and Latin America and more rivalry due to overcapacity in certain areas. This has made the NATO market fall and caused the reduction of budgets in the US and other countries. Not only Norway but the entire Western military markets have been pushed to look for other markets. Competition has grown in this process and Norway has invested in knowledge and expertise which have contributed to the Norwegian military industry to have competitive products and competencies in the global market. Internally, Norway has a military industry composed of 150 companies to maintain. Although only three of these companies, Kongsberg Defense & Aerospace, Nammo and AIM Norway, are considered large defence companies internationally, they are rather small in international terms. The three companies are explicitly partially owned by the Government,¹⁰⁶ which differs from the other example analysed in this thesis and makes for a very particular influence and mix of state and non-state actors on the human rights and security relationship specific for Norway.

The country's neighbourhood has also had an impact into its security strategy. Norway tends to protect its mainland and islands from foreign threats, Russia being the biggest one. It also has antecedents of sea issues with the well-known Anglo-Norwegian Fisheries case sentenced in the mid- twentieth century by ICJ. Norway has a good overall relationship with other Nordic countries and despite not being part of the EU, it has incorporated European Defence Policies into its internal strategy. It is Norway's best interests to have a close cooperation with the EU, and therefore to coincide with Europe's crisis management. All of this has made the Norwegian defence industry have the same framework as the industry it competes against. It has

¹⁰⁶ Kongsberg Defence and Aerospace is part of the Kongsberg Gruppen ASA partially owned by the Norwegian government and with a history of over 100 years in defence production. Nammo is fifty percent owned by the Norwegian government, represented by the Norwegian Ministry of Trade, Industry and Fisheries and fifty percent owned by the Finnish government. AIM Norway was founded as a state owned enterprise in 2011, but has since been given the mandate to reduce state ownership to 50% and to become a limited company. This is because the government decided that state-ownership should be decided on a case by case scenario and on how private ownership would enhance the development of the company. (Defence, 2016; Forsvarsdepartementet, 2015b; Kongsberg Gruppen, n.d.; Nammo, n.d.)

meant, as well, that Norway is part of jointly-funded defence solutions within NATO and also in cooperation with Denmark, Finland, Iceland, Norway and Sweden in NORDEFCO (Nordic Defence Cooperation). Also, Nammo and Kongsberg have had good relation with the US weapons market and are also starting to relate to the British Defence Industry.

Further than this, the importance of the close relationship between the defence industry and national security has been established in the Proposal for Parliamentary Resolution- Prop. 73 S (2011-2012)- and in the Recommendation from the Foreign and Defence Committee on A defence of our time- 388 S (2011-2012) (Forsvarsdepartementet, 2012; Stortinget, 2012).¹⁰⁷ In these documents it has also been established that NATO is the cornerstone of Norwegian security policy, but that in a globalized world, security must be considered in a broader context. By this, it is exalted on and on of the importance of Norway in contributing to peace and stability. Particularly through UN-led efforts of legal order, defence of human rights and strengthening of intergovernmental cooperation. Two actors are essential in this Norwegian equation: the UN and the Norwegian Armed Forces. The UN plays a vital part in the survival of what is referred to as small states,¹⁰⁸ and thus its role as a multilateral forum for cooperation, dialogue, conflict resolution, legality and legitimacy of military power, must be kept strong. Norway should help to maintain this role. With this, Norway prioritizes contributions to international crisis management and peace operations. However, beyond the willingness of strengthening, stabilizing and protecting the UN, there are historical and practical reasons that have made Norway a keen peace leader in international crisis which will be discussed in further in this chapter.¹⁰⁹ Armed forces constitute the other essential element. Although primarily geared to handle external aggression against Norway, Armed forces also contribute to building peace and cooperation in different regions. They are, as said by the government documents: “Norway’s contribution to creating a better world”. Nevertheless, in 388 S document, the duties of the Armed Forces are summarized into nine points and participation in peace support operations is number seven whilst the first few points are based on NATO membership and collective defence frameworks. These points, are not necessarily hierarchical, it is however important to note the order of the duties specially when considering the constitutive causality of the human rights and security relationship and the state’s involvement in it. It is also important in relation to understanding the reasons behind why Norway sells military material.

Two further observations can be added. One, that Norway, in its 2015 White Paper previously mentioned, claims that many large countries consider the ability to supply

¹⁰⁷ Both documents found in Norwegian, unofficially translated to English with Google Translate.

¹⁰⁸ This document emphasizes that Norway considers itself a small state.

¹⁰⁹ It is interesting to mention that the first Secretary General of the United Nations was Norwegian, Trygve Lie from 1946- 1952.

defence materials to others as an integral part of their defence capabilities. It is not clear if Norway, also considers this as important too, as it does not consider itself a large country but a small one. Nevertheless, its preponderance over the military industry, capable Armed Forces and security interests indicate so. Two, that in the same White Paper, peace operations are not mentioned, which indicates a certain divide between human rights and security and a separation between security interests- represented by the need to export arms- and the strengthening of Armed Forces to cooperate in international peace. All in all, Norway seeks to contribute to NATO's war prevention and to a UN-led world order through ensuring a quality contribution to international operations of peace and stability. This again, becoming a clear example of the constant push and pull between human rights and security in the human rights and security relationship within the Norwegian framework. In this there is also an example of the push and pull between an underlying human security complacent with a military agenda versus a more CMV like security aiming to promote cultures of peace in a global and local manner.

A significant addition to the push and pull of human rights and security in Norway's governmental strategies is its export control history. Although obviously not the first state to institute modern export control, it has had significant cases of export licenses denied to the sale of arms in states that might violate human rights. Also, since the mid-nineties a clarification of the original resolution¹¹⁰ has further provided the basis for an assessment of questions related to democracy and human rights in the recipient country. In December 2017, the Ministry of Foreign Affairs, after much campaigning from human rights groups and several parliament members, decided to suspend the licences that had already been granted to the United Arab Emirates (UAE), as a precaution even though there was no evidence that Norwegian ammunition had been used in the Yemen Crisis. Interestingly, Norwegian legislation on arms exports control states that licences can be revoked or suspended if misused (Kytomaki, 2015). This speaks of a well-rounded export control, evidently based on a holistic understanding of human rights and of the international instruments defending them. It also speaks of a definite push towards the human rights side of the human rights and security relationship pertinent for Norway. However, the halt of exports in the UAE case is not as straightforward as it seems. From 2015 to 2016, weapon and ammunition sales to the UAE rose from 41 million (NOK) to 79 million (NOK) (Reuters, 2018). It was until the end of 2017, after the Yemen humanitarian crisis began to make headlines that the exports were stopped.

This demonstrates a system of checks and balances in the Norwegian government, carried out by diverse actors, within and outside the government. It also represents a

¹¹⁰ This was originally installed in 1935, then clarified in 1959 and in 1997. Norway's export control system is much more complex than what is explained in these paragraphs, it has had periods of tightening and relaxation and in 1991 it had the most stringent monitoring system of any NATO country. For more, see (Castellacci and Fevolden, 2015) and (Kytomaki, 2015, pp.21–49).

well-oiled machine that denotes the constant push and pull of human rights and security in the country. There is a definite need for controlling the means of violence in Norway, because, in fact, export controls are not only about not selling those that might violate human rights, but also to those countries that signify a threat to Norway or to its allies. CONCL There is also a close relationship with the defence industry, which in some ways sets it as a stakeholder in the implementation of ATT that must follow regulations- as stated in the preamble of the Treaty. In other ways, it allows for economic survival interests to become clear part of the state. Norway's relationship between the defence industry and the relevant transfer control regulations and practices allows for good cooperation with authorities (Kytomaki, 2015).¹¹¹ All in all, this situation demonstrates the continuous involvement of diverse actors and the semi permeated boundaries of state and non-state actors. This makes for an even more particular implementation of ATT, through Norwegian laws and causes a unique constitution of the human rights and security relationship and the actors surrounding it.

Within-state actors and non-state actors as norm implementers

The Socialist Left Party (SV) of Norway was born in the 1970s but did not rule until 2005 under the Red Green Coalition. Following the 2013 election, the party lost its ruling seat and was reduced to the seventh largest political party. With respect to international relations, the SV has been known for its stance against Norway accessing the European Union and against Norway's membership to NATO. However, Jens Stoltenberg, the former SV prime minister 2005-2013 is now head of NATO. Despite the SV's position on arms control, security, and diplomacy in general, that tend to be of a left wing tradition, Stoltenberg is considered a right wing politician and actually favoured increased military spending and dialogue about military participation in US wars, like Afghanistan. During Stoltenberg's mandate, Norway's military spending increased constantly making it the highest NATO member expenditure. He dedicated to modernising the armed forces and supported Norwegian contributions to NATO operations. Stolenberg was the one that stressed Norway's need to aid allied security challenges in order to enhance their own security. On the other hand, during the 12 years of government tighter export controls were installed and are kept to date by the conservative government. The SV government is another perfect example of the contradicting dichotomy, or more like a polytomy, between supporting a more enhanced security, improvement of the armed forces, whilst emphasizing arms controls and encouraging support for peace and human rights locally, regionally and globally. It is also an example of state security interests put at the forefront of it all. It is contradicting in some ways, that the SV, previous to being the ruling party, was known for its stance against NATO and how the prime minister representing it enhanced NATO support and is today the head of NATO.

¹¹¹ This is not unique to Norway, it happens in all Nordic cases (Kytomaki, 2015).

Today, the SV's actions speak of a more left wing tendency and highlight its interest in protecting human rights via the correct implementation of laws enhanced after Norway's accession to the Arms Trade Treaty. The SV has been putting forward proposals in parliament (Storting, in Norwegian) to cease the supply of defence equipment to countries involved in the Yemen Crisis. Most proposals have failed, or have had very little support from other parties. In December the stop of weapons and ammunition to UAE and in January to Saudi Arabia. However, there is still much to do, transactions of auxiliary equipment have not been stopped. Actually what would be ideal is that all sales to countries involved in the Yemen crisis get retracted. The SV does not work alone, it is also constantly pushed by two major NGOs in Norway Save the Children (also called Redd Barna)¹¹² and Changemaker. The Christian Democratic Party (KRF) has also supported the SV in Storting in matters related to the halt of arms, when others would not.¹¹³ The actions by the SV, backed by NGOs and other parties, are not necessarily completely unique, as other like-minded parties have pushed for legality of arms control elsewhere.¹¹⁴ What the case of Norway halting sales to Saudi Arabia and UAE shows is the intricate understanding of the multilevel game that state decisions have and therefore of the repercussions these decisions have on the human rights and security relationship.¹¹⁵ The SV's activities are part of this intricate multilevel game and demonstrate that the norm implementing action can come from within the state. Actually, the fact that Redd Barna and Changemaker are actively involved also leads to a further intricate multilevel game. It also, adds on to global civil society and the multilayered system that was analysed in chapter 3 along with the other two case studies of this thesis. This system, as in the case of Norway, is increasingly composed of layers of political institutions, individuals, groups, and even companies, as well as states and international institutions (Anheier et al., 2005; Kaldor, 2003). The activities of the SV, Redd Barna and Changemaker, are examples of more radical and inclusive forms of global and local action avoiding embedded militarism and coinciding the CMV lens of this thesis's hypothesis. Also, as will be seen further in the chapter they allow for the focus to be on morality and therefore on improving the weaknesses of constructivist theory.

¹¹² Save the Children Norway, although the local branch of a well-known international organisation does apparently receive funding from the Norwegian Government, as will be detailed in the next part of this chapter.

¹¹³ It is important to note that international news of the topic, mostly focuses on the SV's role and fails to mention civil society or other parties. This is perhaps due to the leading role of the SV, but also perhaps due to the fact that the SV was an important and famous part of Norway's recent history.

¹¹⁴ Germany has also recently stopped all sales to Saudi Arabia in January 2018. It was also the opposition which gave notice to the government of almost quintupled sales to Saudi Arabia from 2016 to 2017 (Deutsche Welle, 2018).

¹¹⁵ Note: As will be seen in the next subpart of this chapter, the decision as understood as coming from the state as a whole has moreover moral and material interests attached to it. These interests also add to the complexity of the game.

According to Irene Dotterud-Flaa, Senior Advocacy Adviser for Redd Barna, or Save the Children Norway, the organisation considers itself as non-political and for the Saudi case has directed to politicians by giving input and expertise based on its three pillars: advocacy, mobilization and media (Dotterud-Flaa, 2018).¹¹⁶ With this they seek to influence the review of White Papers, the changes in policies and the government strategies on arms exports to Saudi Arabia and other Gulf Coalition countries. As opposed to Changemaker, who works broadly on exports to authoritarian regimes, Redd Barna focuses on export to the Saudi led coalition. However, they have worked and supported each other. Redd Barna has found that discussion in the government are so layered that it is difficult to pinpoint what needs to be done in terms of halting arms exports. It is relatable to a well-known Norwegian quote: “it is like discussing the snow that fell last year” (Ibid.). There is no point of discussing a topic that has already maybe melted away. This, coupled with the everyday difficulties that non-state actors encounter is how Redd Barna has been working on the improvement of the situation in Yemen.

In terms of this thesis and of this multilayered system, who would be the actor operating as *norm implementer*?¹¹⁷ The Norwegian state or civil society represented by Redd Barna and Changemaker? Is it that the *norm implementer* is the state as a whole or does the state and the SV become separate entities? If so, does the SV count as a state actor within the state or as a confronter of the state? Furthermore, what are the boundaries of the state, the actors within it and their actions? Are they permeable? One of the main details to be considered when answering the questions above, and looking back on global civil society analysis from chapter 3, is that global civil society and the activities they carry out that have allowed for a shift from formal national institutions to new cross-border spaces (Kaldor, 2013a, p.148), like the Arms Trade Treaty. Thus, actors within the state that push towards norm implementing and are opposite to what the rest of the state desires will be named *within-state actors*, like the SV. *Within-state actors* are born from the necessity of pushing against the state in certain issues, they become *within-state lobbyist* to achieve their tasks. Because political parties, especially opposition ones, tend to have different and sometimes opposing views from the state, they cannot be considered state actors per se. Their interests rely on their voters, and not on maintaining their current role but upon improving it. Sometimes, like SV they receive input and expertise from non-state actors, like Redd Barna. Whether these actors execute this duty by matter of influence from civil society, influence from national historical baggage, influence from international morality, or a combination of all is not well known.¹¹⁸ However, their

¹¹⁶ The information provided on Redd Barna is a compilation of notes on the Interview to their Senior Advocacy Adviser as well as data and a case study shared by them to me.

¹¹⁷ *Norm implementers* have been used throughout the empirical cases of this thesis, but were properly introduced and defined in chapter 5.

¹¹⁸ This point would be a point of further research for a subsequent paper for the deeper understanding of IHL norm implementation within state dynamics.

activities have also shed light on the power of these international human rights and humanitarian based norms and the importance of moral and ethical ideas that have allowed for a new agenda to stand above state sovereignty and over the importance of power relations, in a new post-Westphalian era, as Chandler argues (Chandler, 2004b). Evidently, this has not occurred in a straightforward manner, and some might argue that it has not occurred at all. The cases in this thesis demonstrate that actually it is a constant push and pull between moral and ethical ideas over sovereignty and state preponderance, a constant push and pull between human rights and security. These cases show that the preponderance of the state and its nexus of interests continues to, at times, conquer the interests of global and local civil society. What is interesting about Norway, is that it has happened in a multilayer, multilevel fashion of international and local non-state actors, Redd Barna and Changemaker, and a concerned political party that have been campaigning to stand above the security needs of Norway and embrace an ethical arms control. Even if aware or not, these non-state and *within-state actors* are pressuring the state through international normative structures that have been internalized into Norwegian law and that come for international human rights based law, like the ATT. With this, the constant interaction between structure and agency is evident and so is its complexity and casuistic nature.

When considering global governance and how international human rights and humanitarian regimes affect it, most scholars had tended to focus on the governors to understand change. However, as was seen in chapter 3, Avant, Finnemore and Sell have focused on change being led by agents (2010). This is what this thesis has been aiming to do. These agents do not live in a vacuum and their relationship and acting dynamics are driven by exogenous and endogenous factors and well as structural constraints. Like Avant et al. (2010), this thesis has been finding that the game is way past a two-level one (Putnam, 1988) and it is actually in multiple levels that build upon themselves to create a distinct game within each state that affects global governance in a distinctive way, as was seen particularly in chapter 6. Avant et al. determined that surprises are to be expected when studying global governance and its governors. This thesis, specifically this chapter is finding that Norway's case of implementing the ATT involves this surprises in the shape of actors that are beyond the typical governors of change in global governance. It has non-state actors that are local and partially international, Changemaker and Redd Barna, as well as *within-state actors* that push for the correct implementation of the norm from inside the state actor. It must be noted that Avant et al.'s work has its focus on how these governors, state and non-state actors, influence the structures of global power. Although the cases presented in this chapter and in this thesis, entail more a preceding step to global governance, they still influence the final outcome of it. It is also interesting to see the diverse actors and the multilayer game that they create whilst doing so. These cases and the diverse actors within them become the precursors of state actions that affect global implementation of the norm. Also, like the UK case, Norway's case highlights the importance of norm implementation dynamics that the *norm implementers* carry out

domestically in the second phase of the lifecycle of the norm, in the context of the constitutive causality of the ATT and therefore of the human rights and security relationship. This empowers non-typical actors, local non-state and *within-state actors*, into having a crucial role in the norm cascade phase of the norm. Their actions occur domestically, however the implications and causality of them has tangible and intangible consequences internationally.

Moral and Material interests constructed by its peace discourse

The previous sub- part of this chapter has allowed to begin to understand the tangible reasons of why Norway has certain arms deals with human right violating regimes and also why and how it has stopped them. It has delved upon the security, military and economic-military interests of Norway, that as will be seen below are profoundly linked with the intangible reasons behind this case. These intangible reasons are an amalgamation of historical and philosophical moral features that give Norway its particular view of global interactions and its exceptionalism. As will be seen below, here moral and material interests are constantly intertwined but also deeply related to Norway's peace identity. At times, material interests define moral ones, and other times, the other way around. Behind them is the state's identity and with it its constant need for status seeking that contemplate a morality that is also materiality and vice versa. This is why there is no specific subtitle for material interests and this will also be further understood as the Norwegian human rights and security relationship continues to be constructed in this chapter.

Norway's need to adulate the UN and engage in peace operations globally goes further than a security need, as was pointed out before. It goes back to the country's birth in the 1890s and to the its 20th Century response to world issues, like WWII and the Cold War (Skanland, 2010). The fact that the peace discourse has been an important part of Norway's foreign policy since the start, has allowed for its international presence to be felt much stronger than its size would normally imply. In terms of this thesis, the Norwegian peace rhetoric implies a high level of morality and therefore great interest in ensuring moral stability in its actions. Pertinent to this chapter come the questions of where this peace discourse comes from and what are its implications on the state and non-state actor's actions in relation to implementation of international human rights and humanitarian law, arms control, the Arms Trade Treaty and, of course, the human rights and security relationship. This subpart of the chapter will elucidate upon Norway's identity based on peace and status seeking. It will explain the Norwegian Model and how it is all reflected upon Norway's interests. Finally, it will finish with the merging of moral and material interests influencing the parity between human rights and security in the human rights and security relationship.

Norway's peace identity and status seeking in foreign policy

It is well known that the Nordic states are globally considered humanitarian superpowers. They have been described as: agents of a world common good, forces for good, global good Samaritans, moral superpowers, or simply good states ((Bergman, 2004; Bergman, 2007; Brysk, 1993; Dahl, 2006; Lawler, 2005) in (Langford and Schaffer, 2015)). These terms stem from years of identity formation attached to a peace discourse and a need for status. In Norway, they also stem from Jan Egeland's work named: *Impotent superpower- Potent Small State* (Egeland, 1988). Specifically, status rhetoric in Norway is found in the country's discourse since the nineteenth century and further developed with a more specific construction of it close to turn of this century (Leira, 2014, pp.30–31). Aforesaid discourse involved the concern of what the state should do in the world. Some scholars believe that such discourse was an important concept that organized Norwegian foreign policy thought in the 20th Century (Leira, 2004; Leira, 2005; Steine and Vogt, 2004), while others think that the true peace foreign policy was not significant until the 1990s when Norway began institutionalizing its peace and reconciliation efforts (Neumann, 2011; Skanland, 2010). Peace significance in Norway's foreign policy took many years to define and to date continues undergoing setbacks and changes. It continues to exemplify the push and pull between human rights and security, or between an underlying human security understanding embedded on militarism or a CMV one. In the White Papers between the 1987 and 1992, no specific strategy for peace promotion was outlined, it was actually generally constructed as a subcategory of, or tool in, development aid, humanitarian assistance or democracy promotion (Skanland, 2010, p.36). It was until the period between 1993 and 2003 that the peace discourse began stabilizing and consolidating due to Norway's involvement in peace operations in the Middle East, Guatemala, Cyprus, Haiti, Mali, Sudan, Sri Lanka and Colombia, and its peace-promoting work in Europe and Eurasia through the OSCE (Ibid.). Later, the peace discourse became controversial during the Iraq, Kosovo and Afghanistan conflicts. Despite the changes it has suffered, peace has been constructing Norway's foreign policy as well as continuously permeating into development and military policy as this chapter has shown and will continue to do so.

The genealogy and therefore the construction of the peace discourse has gone hand in hand with Norway's relation to global and domestic actors. Therefore, it is also closely related to the definition of its identity and how this affects Norway's interests of upholding the international system. In constructivist theory, state identity formation, influenced by poststructuralism, is related to the relationship of the self with the other and how this affects the construction of politics (Wendt, 1992; Wendt, 1994). In the interaction with the other, is where states socialize to constitute norms, institutions, ideas, and collective meanings (Jepperson et al., 1996). Like this, state socialization allows for states to have an identity and in respect with the other while also defining their interests. Protecting its own interests, then becomes a matter of protecting their identity. Giving rights, then becomes about giving rights to itself, or

as legal entities possessing rights and duties. Norway, has in fact defined its peace identity through its interactions, first with its neighbouring states, later with the interaction with larger and more dominant ones. Norway has defined its peace identity as key to its foreign policy, security, military and humanitarian interests. It is in Norway's best interest to uphold the international system, in particular the UN, in order to maintain its international status. Even more so, now that it is seeking a place in the Security Council for 2021. The theoretical reasons behind a state doing so, through peace engagement, like Norway, can be seen from different perspectives. System oriented realist and English School scholars, Henry Kissinger and Adam Watson, believe that system maintenance is an exogenous byproduct of the balance of power ((Kissinger, 2012; Watson, 1990) in (Neumann, 2011)). This understanding would exclude the endogenous sources and agents of causation and therefore the multilayered case of Norway. Iver Neumann suggests that Norway's case shows the mix of exogenous and endogenous causes that form Norwegian perspective and have transformed diplomacy by necessarily involving non-state agents (Neumann, 2011). The so called "Norwegian Model" is the best example of this, and entails the government supporting NGOs supposedly with the aim of improving their foreign policy. This Model will be further discussed below and as will be seen, it is not necessarily entirely foreign policy oriented. However, it has also further defined Norway's peace identity. Peace operations and the actors involved in them, state and non-state, are just part of the stronger strategy that the state is constructing in order to promote status seeking internationally.

Then, how and why does a state seek status and create these type of strategies to do so? Rasmus Pedersen (2018) has taken inspiration from Mearsheimer's offensive realism to explain Nordic status-seeking. First, Pedersen defines status as a state's position in the international deference hierarchy. Where large states compete for power and the place to be security guarantor of its allies, while small states desire to be seen by being recognized by their contributions (de Carvalho and Neumann, 2014).¹¹⁹ Pedersen then claims that, in order for status-seeking to be successful, the role played by the small state has to be noticed and publicly recognized by the large power (Pedersen, 2018). Norway has not participated in all of the preparation for US-led coalition conflicts, it did not participate in the Iraq War preparation. And in recent years it has lowered the number of troops in UN operations while focusing more on NATO led ones. Pedersen claims that is due to Norway compensating to the fact that NATO and the US were overlooked by the state, in the period after the Cold War, and in order to avoid marginalization support is needed (Pedersen, 2018). Peter Viggo Jakobsen, Jens Ringsmose & Håkon Lunde Saxi claim that Norway is actually bandwagoning (Waltz, 1979) for prestige and reputation (2016). However, Norway's

¹¹⁹ As has been discussed in other Chapters, status and reputation are not necessarily interchangeable. Reputation and prestige are in some ways in the control of the actor; while status, is often regarded as a function of the global or regional system since it is granted or accorded by others, even though it can be influenced by a state's reputation (Pedersen, 2018; Wohlforth, 2009).

strategy might be better understood as part of a synthesis between self-interest with NATO and solidarity with the UN, as John Karlsrud and Kari Osland assert (2016). This synthesis, actually reflects Norway's want to upkeep with their peace history, their population's desires and their civil society institutions, whilst keeping their place in the hierarchy of states. There is no obligation in having to choose one of these perspectives or the other, but what is true is that they reflect a recent construction of Norwegian foreign policy based on viewing value giving actions, like humanitarian and development aid, and actions based purely on interests in the same equation ((Graeger, 2014; Laegreid, 1996) in Ibid.). These views, also reflect Norway's constant dilemma of the push and pull between human rights and security and how on a casuistic basis one will at times win over the other. This does not necessarily mean that Norway's peace interactions are void of humanity, it just shows the intricate multilayered Norwegian foreign policy and its ability to affect as an agent in the international scene while also having an effect over the human rights and security relationship.

To analyse status seeking further and connect it to Norway's peace discourse, it is important to point out that status seeking can be related to morality and therefore to the peace rhetoric. Wohlforth et al. state that small states gain moral authority internationally and in respect to great powers by assisting in international affairs (Wohlforth et al., 2017). States do this by: taking a cue from their tradition, by supporting in system maintenance, and by continuing the endurance of great powers (Ibid.). Wohlforth et al. claim this assuming that the system has a hegemon, which is in many ways debatable and not necessarily a topic for this thesis. However, it is interesting that this Wohlforth et al.'s small state actions correspond accordingly to Norway's foreign policy activities as well as encompassing both the human rights and security sides of the conundrum. First of all, Norway bases its actions, consciously or subconsciously, on its peace discourse that has a historical tradition dated to the end of the 19th Century. Second, Norway is interested in maintaining the status quo and specifically in maintaining the UN. Interestingly, related to this second point, Norway is currently in the running for a sit in the UN Security Council 2021 where peace is a large part of the agenda that Norway has set for its candidacy. Finally, it involves itself in NATO, perhaps for a selfish security reason, but also perhaps to upkeep the US's global status. These three actions reflect Norway's rapport with the human rights and security relationship, one of constant push and pull constitutively caused by diverse reasons in a multilayered approach. For example, oscillating between bidding for a position in the Security Council but focusing on a peace campaign, is the perfect example of Norway's fluctuation between human rights and security while at the same time assembling of human rights and of security. These actions also reflect a sense of morality that similarly affects Norway's human rights and security relationship and its actions in the efforts of halting arms to human right violating states. More importantly, this enhances the argument of this thesis, were human rights are given but there is an obvious control over the means of violence, where

there is a tension between sustaining human security embedding militarism or focusing on promoting cultures of peace not embedded militarily.

The “Norwegian Model” and *false morality*

One of the most recent key aspects of Norway’s peace discourse is the state’s relation with civil society, domestic and international. In fact, Norwegian Foreign Policy has at the forefront, this relationship (Melissen 2005a, 2007; Cull 2009, Rugh 2011 in (Pisarska, 2016)). Also referred to as the “Norwegian Model”, this relationship was born from Jan Egeland¹²⁰ and the Oslo Middle East Accord of the early 1990s. It refers to the idea that government, civil society organisations and research institutions are organised for coordinated efforts of foreign policy directed by the state with substantial government funding (Toje, 2011). The model implies that private actors, like non-governmental organisations, research institutes, consultancy firms merge with government agencies and official policymakers and gain semi-official status as extensions of Norwegian diplomacy (Østerud, 2005). It also implies that the relationship between the state and non-state actors does not have to be a zero-sum game, but it actually defines rules, practices and techniques of this global governance segment (Sending and Neumann, 2006). Nevertheless, the Norwegian Model has had positive and negative outcomes. NGO financial dependence or independence from the state has made other sources of funding basically disappeared (Sending and Neumann, 2006). It also can create: i) constraints on freedom of determination; ii) personnel no longer able to make independent assessments of whether they have sacrificed agency integrity or acting in good conscience and iii) it can weaken NGOs contribution to fundamental analysis and debate, as stated since 1973 by a USAID document ((USAID, 1973, p.18)in (Toje, 2011, p.23)). In fact, in Norway, due to high financial dependency, NGOs are expected to implement policy requests from authorities as the Government White Paper # 35 states ((Stortingsmelding nr 35 (2003–2004) in (Toje, 2011)). Like this, organisations are sometimes forced to leave their morality on a shelf whilst a humanitarian misfortune is used as a financial opportunity to “agenda chase” or “rent seek” (Toje, 2011; Tullock, 2008).

What is left to be seen is if despite NGOs contingency to their financial patron, it has the ability to influence the supporter’s behaviour. As discussed in chapter 5, Volker Heins (2008) describes NGOs as “benign parasites” because they seek to “infect” and thereby change the behaviour of their hosts without harming them (Heins, 2008, p.2). They slip information and legitimacy to states in exchange for reputation, funds and social contacts (Ibid., p. 159). All of this also depends on the level of dependency

¹²⁰ Jan Egeland is a renowned political scientist, humanitarian leader, and Norwegian diplomat. He was Foreign Minister in the 1990s and has occupied high roles in international and national NGOs, like the Red Cross, AI and HRW. His ideas have transcended Norwegian foreign policy and now rule the state’s relationship with NGOs.

between state and non-state actors, as well as the degree to which one tries to influence the other. In this sense, do Redd Barna and Changemaker's actions indicate "benign parasites" characteristics? Or does the Norwegian government have influence over them? In 2008, a detailed study by Kjetil Fretheim (2008), carried many interviews to find out, among other things, how the Norwegian state and the NGOs where connected. In this study, it was implied by interviewees that Save the Children (Redd Barna) receives a small amount of funds from the government. It is not defined, if these funds go towards Save the Children's activities outside of Norway or inside. However, the interviewees from Save the Children voice their concern for at times have felt like their direction comes from the Norwegian Agency or Development Cooperation (NORAD). Still they do insist on the small size of the funding the organisation receives from the government. This goes along with what one interview from the Norwegian government said about Norwegian NGOs: "I would not characterise them as our extended arm, by no means...we have no professional follow-up, no professional directions and no Budget control (Fretheim, 2008)". This study, in particular refers mostly to the international development duties that both the Norwegian government and the NGOs carry out globally. Nevertheless, it can be a reflection of what happens domestically.

When interviewing Red Barna, Irene Dotterud-Flaa said that funding is a mix of public and private (Dotterud-Flaa, 2018). Although the topic was not discussed at length, it gave me the sense that it did not matter that Norway gave funds to Redd Barna, Redd Barna still kept its objectives of seeking the halt of arms even if this could affect the government. However, if the Redd Barna, in charge of pushing for an indirect implementation of ATT, does receive money from the Norwegian government, does this imply that part of its decision making comes from the state? and then how trustworthy can their moral actions be? If, Redd Barna receives funding from the government, and according to White Paper #35 previously mentioned, the organisation NGOs are expected to implement state policy requests. Again, most of the cases studied by diverse scholars and by White Papers, refer mostly to NGOs working in the international development arena outside the state. So this means, that the possible degree to which Redd Barna's actions, inside the state as opposed to in international development, are tainted by state's policies cannot be estimated. Nevertheless, there is in fact a minimum of financial support and influence over Redd Barna, then it would mean that the state and the non-state act, in a way, together. Would this make Redd Barna a somewhat *mixed actor*? An actor that in some hidden and even remote way is representing the moral side of the state? This would mean that the non-state actor has no free will. However, after speaking with the Senior Advocacy Adviser from Redd Barna this was not the sensation, despite her confirmation that their funding is mixed. It was more like the actor is a non-state reformative actor, that in some ways is dependant from the state but acts alone. The actor has free will, and is actually fortifying its morality with a push from the state, even if it will later be in exact opposition of the state too.

Beside the Norwegian state's influence, or not, on NGOs actions why has the state even invaded civil society? Partially as a consequence of the historical peace baggage that Norway carries. Also and according to Terje Tvedt in order to diversify national foreign policy instruments (Tvedt, 2007). If this is true, then the NGO- state relationship leads to what is called the Nordic Human Rights Paradox (Langford and Schaffer, 2015). This paradox wonders why national values, norms and traditions produce commitment to human rights abroad but scepticism toward human rights at home (Ibid, p. 2). It also refers to the Norwegian or Nordic contradiction towards human rights where on the one hand it takes pride in promoting them and on the other policymakers are increasingly opposed to the expansion of IHL rights mechanisms in case these limit the foreign policy leeway (Pisarska, 2016). In some ways, this is relatable to the case presented on this chapter, where the state has to be pushed by other actors- be it *within-state*, non-state actors, or *mixed actors*- to correctly follow and implement international instruments like the ATT. It is also an example of the morality of the Norwegian state, a *paradoxical morality*. Norway constantly pushes to maintain its international status of peace and highly moral state whilst domestically is a different story. Domestically it can be seen as *paradoxically moral*, and it can also be seen in relation to the Norwegian model of NGO support. On one hand, it is enticing NGO financial health while on the other hand, it influences their actions due to this. Internationally, this morality becomes *false morality*, which similar to the case in chapter 5 and 6 comes from a combination of Carr's morality as a cloak for great power interests (1946) and a Grotian/English School perspective (Bull, 1977; Vincent, 1986).¹²¹ It is as if the state is the ultimate carrier of morality internationally but not as much internally and this paradox gives forth to a *false morality*. The degree of falsehood between the *false morality* of the three cases presented in this thesis is not the same, and in the case of Norway it is preceded by a *paradoxical morality* that is easily identifiable with the peace baggage. More than anything, this paradox in the shape of *false morality* suits Norway because it exemplifies, once more the constant push and pull between human rights and state interests and of course in the human rights and security relationship. Once again, this *false morality* gives greater force to this thesis argument where rights are given but the means of violence are sought to be controlled and with the contribution of focusing on morality to alleviate the weaknesses of constructivism.

Interests and the parity of human rights and security merge

With what has been explained throughout this chapter, material interests in the shape of military, security and foreign policy can be found. Indirectly, economic interests can be found too, through Norway's protection of its oil via neighbourhood policy and through the support of Norway's half state owned military industry. After interviewing Irene Dotterud-Flaa from Redd Barna, something interesting came up. She mentioned that in Norway's need to upkeep old arms export licensing to Saudi

¹²¹ The concept of *false morality* is explained in detail in chapter 5.

Arabia, it seeks to be seen internationally as a stable business partner and therefore will not entirely give up its exports (Dotterud-Flaa, 2018). Also, that although Norway's economy is strong the weapons industry is connected to other industries and it will seek to protect them as well as work places (Ibid.). In this sense, economic interests have not been dealt with directly, not because lack of existence but because in many ways Norway's economy is healthy. Economic interests are directly and indirectly related to other interests. Indirectly, it becomes apparent that all these interests are related between them as well as profoundly intertwined with Norway's moral interest. The ruthless prioritization (Leonard et al., 2002, p.169) of interests is what gives Norwegian global policy its peculiarity but also what leads to believe that in Norway the human rights side and the security side of the human rights and security relationship is almost the same or severely linked. Similar to how security in other languages is a synonym for safeguarding and protecting, Norway is protecting its security by ensuring human rights globally. The peace discourse itself is plagued with securitization, which is also a large part of Norway's interests. Then, moral interests and material interests are inundated with both a human rights and a security rhetoric.

In economic terms, Norway's policies are also relatable to its best interests in up keeping a good security policy in its neighbourhood, to protect its oil. Another reason to support NATO and to control Russia from entering its oil territory. Norway can in fact be very protective of its oil territory, an example of how protective it can be, is the Fisheries International Court of Justice 1951 case. It could also be argued, although no real evidence of this is found, that Norway unconsciously or consciously pushed from restraining arms to in a way of undermining one of the largest oil producing and oil exporting states, Saudi Arabia.

One of the largest example of the collision of moral and material interests and human rights and security lies in Norway's mission with NATO. As was explained in the upper part of this Chapter, Norway is deeply related with NATO, even more so when Jens Stoltenberg is its current head. The first three words that appear when entering the Permanent Delegation of Norway to NATO website (Utenriksdepartementet, n.d.) are: peace, stability and security. No other three words could more perfectly describe Norway's world vision and of course its constant push and pull between the human rights and security relationship. In the website, it is claimed that both the UN and NATO are key to Norwegian foreign and security policy, where activities like: peace and reconciliation efforts, peace diplomacy, verifiable disarmament and development policy are needed to address global security challenges. Like this, by protecting human rights Norway is ensuring security for itself, its neighbours and allies. This not only substantiates the human rights and security cause, but also the further implications of the multilayeredness between state actors and international institutions. It further proves that human rights and security are interconnected, and that the state while giving human rights preponderance it is also always controlling the means of violence, as this thesis argument entails.

Particular overlap of human rights and security relationship of Norway

The genealogical point of view has allowed to appreciate the particular characteristics of the constructivist human rights and security relationship in the Norway case. It has also showcased the complexity and contingency characteristic of both genealogy and constructivism and the co-constitution of societies. Throughout this analysis it has been showed that this relationship is being constructed probably since the start of Norway as an independent state, or even before. It is also constantly evolving and involving diverse actors from diverse layers of norm dynamics all with the objective of advancing or not human rights and security treaties. The human rights and security relationship displays the peaceful nature of the state without forgetting its involvement with other states, other non-state actors and even with actors within the state. It also shows, the constant tension between an underlying identification with the embedded militarism of human security understandings versus a CMV view seeking to promote cultures of peace.

Characteristics of the human rights and security relationship


The overlap between human rights and security in this Norwegian case of implementing ATT by halting arms to certain Arab countries, can seem either overcomplicated or simple. Overcomplicated, because the nexus of key interests, material and moral, seems to be intertwined and in constant change, also the multilayer multilevel involvement of diverse actors from within the state, from the state and from outside the state. However, it is actually very simple and it is overall a reflection of the constant push and pull of human rights and security that has characterized Norway's policies for decades. On one hand, the continuous merge of material and moral interests is actually exemplifying the willingness of the state to put human rights and security in parity. On the other, it is actually showing its somewhat mischievous action of using the peace discourse to gain foreign policy and strategic advantage. With this, it is then clearly understood that Norway gives rights, while controlling the means of violence and by involving diverse state, non-state and *within-state* that causally constitute a multilevel game where boundaries at moments seem undefined but that give hence to a higher connection between human rights and security.

Redd Barna has sought change and the implementation of the norm through respect for arms control. Although its state funding could in principal stop the organisation from outreaching into certain areas of change, because of the nature of the Norwegian model, as has been discussed throughout the chapter, this was not the case. Redd Barna, similarly to CAAT in chapter 6, utilised campaigning online and offline as well as articles on specific suffering from Yemen on their website and social media. Redd Barna allied with Changemaker. The organisations focused on different aspects which allowed for their success to be more eloquent, Changemaker worked on export to authoritarian regimes, whilst Redd Barna more on exports to the Saudi

led coalition (Dotterud-Flaa, 2018). Redd Barna also had an alliance with the SV to influence parliament; talks were also held with the KRF and Green party, although the more organic cooperation occurred with the SV. Through this alliance, Redd Barna utilised its research and knowledge to input the SV's parliament proposal. The alliance's force and effectiveness to reach norm implementation can be seen further in Figure 3 in the human rights and security relationship of this case study.

Like this, Norway has a particular human rights and security relationship were due to its diverse peculiarities, aforementioned, human rights and security are almost the same, or almost completely overlap. Figure 3, is the visual depiction of the relationship and the key summary of the nexus of key interests that have been discussed throughout this Chapter. The SV's key interests play a role not only in the actual overlap of today's relationship, but also in how this relationship has been evolving in the last decades. Although not mentioned explicitly in the Figure, the SV's long government by Jens Stoltenberg outlined many of the military specifications that are still defining Norway. Not to mention, Stoltenberg's involvement with NATO during and after its government. Today's SV is trying to rise from the ashes of a not so good election and therefore in this action defining and strengthening its position as a left wing, pro human rights, anti NATO party. Even though the degree of involvement of Redd Barna, is not precise, its key interests are taken into consideration, especially given the Norwegian Model and the possible small financing of the state. Redd Barna, most likely offered support or perhaps even pushed the SV to act in favour of Yemen and although its role was not as key as CAAT's role, in the UK case in Chapter 6, it did play an important part. Norway's interests are merged in this Figure, mostly because of this merging is why the state of the overlap exists. It is important to notice how morality, or false morality, is represented in all the material interests through the well-known peace discourse. In this case, then, the carriers of morality are all the actors involved, to more or less extent and morality has been clearly internalized into materiality to give this particular overlap of the human rights and security relationship. The focus and analysis of morality, in this cases as in the cases of chapters 5 and 6, has been possible due to this thesis focus on a CMV lens that contributes to improving the weaknesses of constructivist theory. Nevertheless, the overlap is not complete and this to signify that there are realms of human rights and security left untouched by the other.

Figure 3

The human rights and security relationship of Norway, the SV and Redd Barna Halting of arms deals to UAE and Saudi Arabia		
Overlap defined by moral and material key interests of:		
Within-state actor SV	Non-state actor Redd Barna	Norway Moral and Material Merged
Moral Respect for arms control (full implementation of ATT and other IHL instruments), against Norway's membership to NATO, respect for HR in Yemen Crisis Material Political Votes, improvement of political status	Moral Respect for arms control (implementatiton of ATT), respect for HR in Yemen Crisis, Safeguarding children in Crisis Material Status maintaining status domestically and internationally	Security - Support allies, NATO, maitain relationship with EU, neighborhood policy, peace engagement (False Moral) Military - maintain partially government owned industry (Kongsberg, AIM and Nammo), material freedom of action, preparedness, arms control (False Moral). Foreign Policy - keep peace discourse (False Moral), support allies, upkeep UN and NATO, maintain status of peace doer (False Moral)
		

Implications for future ATT implementation locally and globally

The nexus of key interests in Norway that gives birth to this particular overlap can be seen in a positive way by appreciating the advancement of human rights in the evolution of its relationship with security, by applauding the work of *norm implementers* in and outside the state, and by realizing the meaningfulness and implications of this on the lifecycle of IHL instruments like ATT. However, the overlap can also be seen negatively. It exemplifies the states permeation into all realms and control over the human rights side of the human rights and security relationship. It shows how security is perhaps controlling even more human rights and using them to gain more supremacy. Nevertheless, the relationship and the overlap do imply a larger sense of morality from the state, whether its false or paradoxical, especially in comparison to the UK case. Also, it shows another example of how states- including *within-state* and non-state actors-, have dealt with the lack of enforcement mechanisms of ATT. The action of these actors, therefore is key in the advancement of the Treaty and should therefore be praised in that sense.

The diverse actors involved in this case, and their actions in particular, are also guiding the behaviour and further shaping the identity of those who will follow (Onuf, 2012). As well as determining further the status of full implementation or not of ATT. By doing this, the actors are constituting further not only the future for other actors but also for the relationship between human rights and security that these actors cause. Whether the vision of constitutive causality is in a differentiating sense among the

two concepts, like Wendt (1998), or an overlapping belief, like Rogers Smith (Smith, 2003) or John Ruggie (1998), the activities carried out by these actors demonstrate that causes have effects. Norway's approach to an open support of non-state actors like the military industry and the NGOs demonstrates the intricate constructed composition of the specific Norwegian implementation of the ATT, and other IHL instruments, and the role that *norm implementers* have in it. Norway's peace discourse, permeated upon within state, state and non-state mechanisms has had an effect upon creating a stop to the sale of arms in UAE and Saudi Arabia. This in turn is having an effect over the search of respect for human rights in Yemen, but also on the correct implementation of ATT, as well as other IHL instruments. It is also influencing the further policies that will be created within Norway and outside too. Like this, the constitutive causality of the halt of arms sales to such countries, is directing our attention to the social processes and interactions, accidents and agents that mediate between them and the outcome that interests us (Lebow, 2009). It is also, displaying that the constitutive causality has had its effects, but is also at the same time an effect of a causal constitution of peace discourse, security rhetoric, military preparedness, status up keeping, foreign policy, and all the rest of the key interests summarized in Figure 2. In this sense, this case is an example of a continuous circle of cause-effect relations that impact diverse actors at diverse levels, diverse international instruments, multilevel game of actors and actions that construct and constitute the causes for the ultimate configuration of the human rights and security relationship.

Ultimately, the local and global implications of the norm implementation dynamics of the Norwegian case demonstrate that despite Treaty violations in other countries, some others have advanced past the violation and into the compliance and correct implementation, or at least are trying to. The case empowers, non-state actors and more importantly *within-state* that become key to the favourable evolution of the norm. There is also an empowerment of human rights and morality, and also a key role for the state's involvement with human rights- even though in some senses they might be used strategically. Most notably, this case continues to provide strength to the argument of this Thesis by giving rights, through false morality and state involvement, whilst controlling the means of violence.

Conclusion

The genealogical and constitutive analysis of the Norwegian case has allowed to see how its defence, security and foreign policy strategies coupled with a historic sense of material and moral peace engagement are in the centre of its response to arms sales violating the Arms Trade Treaty terms. Also, genealogy coupled with constructivist theory has showcased the complexity and contingency core to both and therefore core to the human rights and security relationship (Bevir, 2008; Kessler, 2016; Onuf, 2012; Onuf, 2009). The unhidden interests of cooperation and safeguarding the military industry give a peculiar twist to state and non-state actors in arms control dynamics. It has meant that limits between states can become easily

undefined. Supporting the industry, in particular its three main companies: Kongsberg Defense & Aerospace, Nammo and AIM Norway, also means that the state wants to avoid an addiction to foreign suppliers that could have an impact on national security and on national freedom of action. Government documents exalt these beliefs and define cooperation beyond financial aid and through marketing involvement too, which makes for a well-coordinated industry. It is important to point to the how the importance of Norway contributing to peace and stability globally is always illustrated in its security and defence White Papers in one way or the other. Such White Papers, also depict a system of checks and balances carried out by diverse actors within and outside the government.

Within the government, especially within the parliament, opposition parties stand out as carriers of morality and defence over the ATT related topics. The Socialist Left Party (SV) is an example of the polytomy between supporting a more enhanced security and improvement of the armed forces, whilst emphasizing arms control and encouraging support for peace and human rights locally and globally. The SV's action of pushing, alongside other opposing parties and NGOs: Redd Barna (Save the Children Norway) and Changemaker, have been actively involving themselves and making for a further multilevel game of actors. Like this, actors within the state that push towards norm implementing and are opposite to what the rest of the state desires are denominated *within-state actors*, like the SV. They are born from the necessity of pushing against the state, they become within-state lobbyist to achieve their tasks. Their activities shed light on the power of the international human rights and humanitarian based norms and the importance of moral and ethical ideas that have allowed for it. Non-state actors that are reformative NGOs, like Redd Barna, receive some funding from the state and could be then seen as *mixed actors*. However, because of the sense that was gotten after interviewing and due to the fact that they move in an opposite realm to the state they are simply considered non-state reformative actors. Redd Barna and the SV are *norm implementers* that are pressuring the state through international normative structures that have been internalized into Norwegian law and that come for international human rights based law, like the ATT. Both actors, represent through a CMV lens, actors promoting cultures of peace in a global and local manner to push against the embedded militarism that human security and other understandings of security have.

Norway's case, as the other two cases of this thesis, demonstrate that actually it is a continuous push and pull between moral and ethical ideas over sovereignty and state preponderance joined with the nexus of key interests that permit a close interaction between structure and agency. In this sense, this chapter, like the two previous ones also show that norm implementers are, like Rawl's original position agents' are aiming to limit the traditional powers of sovereignty and seeking fairness. These cases also, exemplify the casuistic nature of the topic and the change led by agents that have evolved significantly in the last decades (Boli and Thomas, 1999a; Anheier et al., 2005; Kaldor, 2013a). Like most cases, Norway's case involves surprises in the shape of

actors that are beyond the typical governors of change ideas in global governance (Avant et al., 2010). These agents are the ones pushing for the correct implementation of the norm from above, from below (Keck and Sikkink, 1998) and from within the state actor.

Norway's agents cannot be understood without the material and moral key interests that define them. These interests, particularly in this case, are severely intertwined, whether purposefully or by chance. The material interests of Norway stem from a peace rhetoric, characteristic to Nordic countries, but principally formed in Norway since the late nineteenth century and expressly significant and institutionalized since the 1990s. The construction of the peace discourse has gone hand in hand with Norway's relation to global and domestic actors, and therefore closely related to the definition of its identity. Because of this, protecting its interests becomes a matter of protecting its identity. This identity shows a mix of exogenous and endogenous causes that transform Norway's strategies. The "Norwegian Model" is the best example of this, and entails government supporting NGOs financially. Status seeking goes alongside identity in Norway, and with the small state syndrome of having to be noticed and recognized by others, especially larger powers. Throughout this, it can be seen that Norway is consciously or subconsciously, basing its strategies on the peace discourse, interested in maintaining the status quo specifically the UN and the upcoming candidacy to the Security Council, and involving itself successfully in NATO. This with aims of up keeping its global status. These actions reflect Norway's rapport with the human rights and security relationship, one of constant push and pull constitutively caused by diverse reasons in a multilayered approach. In this, a *paradoxical morality* comes into play, or more like a *false morality*. It is as if the state seems to be the ultimate carrier of morality, through its peace engagement, but not as much internally when it comes to arms control export licensing decisions and the ruthless prioritization of strategic interest. Once more exemplifying the constant push and pull between human rights and state interests and of course between human rights and security. Also, a further recalcitrant representation of giving rights whilst controlling the means of violence and a contribution to moral issues lacking in constructivist theory.

Like this, the overlap between human rights and security in the case of Norway implementing ATT, shows a continuous merge of material and moral interests through the use of the peace discourse to gain foreign policy and strategic advantage. All in all, involving diverse state, non-state and *within-state* that causally constitute a multilevel game of actions and key interests that give birth to an almost parity between human rights and security. In this sense, Figure 2, visually depicted the relationship and summarized the key interests that have been discussed. The key interests play a role not only on how the overlap looks like today, but also on the evolutionary effect it has over the implementation of ATT locally and globally. Moreover, the case is an example of a continuous circle of cause-effect relations that empower non-state actors and more importantly *within-state*, key to the evolution of

the ATT. There is also an empowerment of human rights and morality, even if used strategically to enhance security, defence and foreign policy. Most notably, this case continues to provide strength to the argument of this Thesis by giving rights, through false morality and state involvement, whilst controlling the means of violence.

Chapter 8- Conclusion

Throughout this thesis, the genealogical constitutive framework of analysis has allowed to answer and problematize the question of what is the relationship between human rights and security and what does the Arms Trade Treaty, particularly its implementation, reflect about such relationship. By innovatively deconstructing, constructing and reconstructing, I have been developing a much further understanding of rights and security defined as the human rights and security relationship and the complex nexus of moral and material interests that accompanies it. A constitutive causation (Lebow, 2009) has directed the attention to the interactions and social processes between actors that go beyond the typical definitions of state and non-state. The genealogical perspective coupled with a constructivist set of mind has brought to the surface the contingent nature of the human rights and security relationship. Opening the topic to contestability and suggesting countless ways of interpreting depending on the circumstances and the actors around it, as each case study has demonstrated. It has based complexity and contingency in genealogical stands and core constructivist theory, as explained in chapter 1 (Bevir, 2008; Kessler, 2016; Onuf, 2012; Onuf, 2009). Actors construct their agency within the state, like the SV in Norway, or to a lesser extent DfID and the special advocates in the UK, actors that mediate internationally to impose implementation nationally, like Control Arms-ATT Monitor, or organisations that operate domestically seeking impact internationally, like Redd Barna and CAAT. The combination of constructivist literature and English School understanding has allowed for a superior view of the practice of states and non-state actors shaping international norms and guided by moral purposes (Dunne, 2011). Under these precepts, the paths where human rights and security crossed have been proven to be socially constructed and dependant of the diverse actors that play in a multilayer multilevel game of moral and material interests. More than that, interests have been exhibited as being constituted by diverse factors that are entrenched in historical, political, economic, military/security, foreign policy values that are in continuous motion and definition of the actor's decisions at a conscious and/or subconscious level. The recognition of the human rights and security relationship throughout this thesis aides in the further development of the interpretation and further implementation of the Arms Trade Treaty. It also helps those actors who are interested in advancing the norm. This is because this thesis has gone beyond previous studies of human rights and security norms by focusing directly on the human rights and security nexus.

Taking this thesis's hypothesis focus on controlling the means of violence, it has been seen that forms of global-local action have been taken into consideration. This, through the action of global-local NGOs and other non-state or mixed actors who have aimed to reduce the embedded militarism of the Arms Trade Treaty. By adding the CMV lens coupled with the human security lens, other actors, besides the state actors can have key roles in promoting cultures of peace, as it has been seen with CAAT and Redd Barna, for example. Effectively, this is what the human rights and security

relationship represents; how non-state actors balance out state action that is based largely on material interests. Then, material interests of state actors tend to overcome moral interests, where moral interests are almost always tainted with materiality creating false moral interests. The analysis in this thesis has addressed weaknesses in this constructivist theory through the explanation of moral action, particularly with the concept of *false morality* and its link to theoretical concepts, like organised hypocrisy. The focus of morality is made possible due to the CMV lens that enlightens the moral constellation of the actors and therefore addresses weaknesses in constructivist theory.

The deconstruction of human rights and security, separately and together as well as their engagement with norm dynamics was carried out in chapters 2 and 3. Chapter 2, showed in a genealogical manner that human rights and security are separate entities, but at the same time the same. The connection is understood as starting from the conception between safety and threat based on the Hobbesian precondition of fear. Where insecurity implies that the need for safety as a condition for human relations and as a condition for the state to guarantee it (Jackson, 2000; Jackson-Preece, 2011). Security becomes “no more than safety (Bull, 1977, p.18)” and therefore actors, like the UK, Norway, or the ATT member states seek to protect it. Because of this view of security then other actors, non-state actors, like Control Arms, Redd Barna, CAAT and beyond also seek to guard it. This in an evolved understanding of security as human security based on Kant’s cosmopolitan conception of rights (Hernandez, 2018) and developed into the Responsibility to Protect. R2P has been especially important because of its advancement into norms protecting human rights, like the ATT, and because of the empowerment of non-state actors, like the actors in chapters 5, 6, and 7.

Chapter 2, set the basis for two key finding of this thesis: *norm implementers* and *false morality*. Norms based on rights and security, like the ATT, are enhanced by Kant’s conception on universality of rights but especially by Rawls philosophy (Rawls, 1971; Rawls, 1993). By combining Kant’s universality, moral law and Rawl’s original position, principles of human rights emerge that manage to encompass both security and rights in a universal and fair manner. Rawl’s original position is crucial for understanding the freeness, mutual disinterests, rationality and fairness of the *norm implementers* of the case studies. Also, for comprehending how, like the law of the peoples, norm implementers limit the traditional powers of sovereignty. As was seen in chapters 5, 6, and 7, *norm implementers’* freedom is not necessarily true and related to if an organisation’s dependency on the state, or if it is reformist or transformative. For example, Control Arms- ATT Monitor is to a certain extent contingent to state funding and through the Norwegian Model, so is Redd Barna. CAAT, as a transformative independent organisation does have authentic freedom of movement, at least freedom from the state. Therefore, CAAT is a Kantian organisation because the morality of its actions derive from the action itself and not from the consequences it produces. The consequences of morality or the lack thereof, in chapter 2, are what

helped define *false morality* and the CMV lens is what allowed the focus on morality in the first place. *False morality* is based, partially, on John Stewart Mill's consequentialism, where the end justifies the means and the goal of morality is reliant to it. As mentioned in chapter 1, *false morality* is a constructivist way of reflecting upon morality, similar to organised hypocrisy, it is also a way of addressing weaknesses of constructivism. In chapter 5, Control Arms-ATT Monitor is almost considered false moral, as opposed to chapter 6 where the UK in the High Court decision of 2017 is considered false moral.

The rest of Chapter 2 and Chapter 3, helped to understand where the human rights and security relationship fits in the interspace of arms control, as well as with the actors and interactions of global governance. Stemming from a constructivist conception of norms and their lifecycle (Finnemore and Sikkink, 1998) and specially from the particular role that transnational advocacy networks (Keck and Sikkink, 1998; Price, 1998; Florini, 2000) have in influencing the evolution of norms (Boli and Thomas, 1999a; Price, 2003; Risse, 2008; Risse and Sikkink, 1999; Risse-Kappen, 1995), this thesis has confirmed the part that non-state actors, like Control Arms-ATT Monitor, Redd Barna and CAAT, play in the improvement of norms. Also, how these actors focus outside the norm creation of human rights security based regimes (Garcia, 2006; Garcia, 2011), like the Arms Trade Treaty (Garcia, 2014; Garcia, 2015; Bolton and James, 2014; Sears, 2012; Bolton and James, 2014; Casey-Maslen et al., 2016; Spies, 2009; Bromley et al., 2012; Krause, 2002) and beyond compliance of human rights norms (Risse et al., 1999; Risse et al., 2013) and arms control (Mathur, 2011; Muller and Wunderlich, 2013). Arms control has been understood further than the positivist view (Borrie, 2009) and more focused on critically reflecting on the security framing underlying current policies and functions to come up with controlling the means of violence (Cooper and Mutimer, 2011). In the interspace of arms control, human security, although helpful towards the creation of the Arms Trade Treaty, is actually complacent with the military agenda (Stavrianakis, 2019). That is why in this thesis it is used partially to understand the case studies and why a CMV lens allows to include other actors that promote cultures of peace in a global and local manner. This served as basis for part of the hypothesis of this thesis, acknowledging that states not control arms, but control the means of violence. This can be appreciated indirectly in chapter 4 and 5, with the way in which member states control the mechanisms of the ATT to upkeep with giving rights on one hand but controlling the means of violence on the other. Also, examples throughout the case studies in chapters 5, 6 and 7 demonstrate how actors, usually non-state and mixed actors, embrace the promotion of cultures of peace and allow for a focus of the moral constellation of the human rights and security relationship to display.

Chapter 2 also defined the distinctive constructivist human rights and security relationship. This definition went beyond the previous similar definition of the security and rights nexus (Sasse, 2005). First, it was outlined as the juxtaposition of two circles, human rights and security, where the common elements of the two are

denoted within their intersection. Then as being composed by the nexus of moral and material interests that are constructed by historical, cultural, social and other pertinent values. The relationship represents the practical and political implications of each agents' preferences as well as the interaction that diverse actors incur in when seeking to change the structure of international relations. The relationship is ever-changing in a contingent (Onuf, 2009) continuous two-way process (Onuf, 1998) much like the constructivist theory of International Relations. Furthermore, the relationship falls somewhere in between a Hobbesian security perspective and a Kantian universality, as explained in chapter 2. It can be seen either from a narrow perspective, where it develops within a state or belongs to a specific actor, or from an international level, where it becomes the sum of the relationships actors bring globally and the direct reflection of international law. The contemporary human rights and security relationship was born with the establishment of humanitarian law, that is with the creation of the First Geneva Convention in 1864. It can also be said that the contemporary relationship is a constant construct of the social realities that its interactions and its actors bring. Constructed within the international relationship itself, but also by the composition of ever-changing local human rights and security relationships. The relationship gives guidance to actors by being structure but also agent. Moreover, the human rights and security relationship turns out to be a platform where actors, directly or indirectly, consciously or subconsciously are influenced by cultural, social and historical facts to manipulate or accommodate the situations whilst constructing a defined connection between security and human rights.

Chapter 3 allowed to appreciate the ways in which non-state actors influence global norms (Chandler, 2004b; Chandler, 2004a; Chandler, 2001) as actors of a global civil society that in the case of this thesis goes further than norm creation and into a higher level of the lifecycle of the norm. Global civil society pressures the state through international normative structures (Chandler, 2004b), like Control Arms or Redd Barna, demonstrating the influence of structure upon agency, the constant dynamics involved and the importance of ideas, morality and ethics over power (Ibid.). Furthermore, non-state actors were seen to operate beyond their confinements (Anheier et al., 2005) to cross-board spaces (Kaldor, 2013a) like Redd Barna interacting with political parties within the government in chapter 7. The changes that non-state actors, global civil society, TANS or NGOs inflict have been also considered to be a combination of national, international and everything-in-between circumstances (Avant et al., 2010). This combination of reasons has been important for this thesis, as it encompasses the nexus of key moral and material interests that push for the enhancing the human rights and security relationship. More importantly, are how these agents interplay in constant change and they are constrained by, not only intermestic factors (Putnam, 1988) but constraints from multiple levels, as has been seen in the three cases presented. Also, because global governance is constantly changing, as are its agents, and surprises are to be expected (Avant et al., 2010). These

surprises, in the form of new *norm implementers*, that can be actors *within-state*, like the SV in Norway or to a lesser extent DfID and the special advocates in the UK.

Overall, the theoretical stands from chapters 2 and 3 display a cross-fertilization between constructivist and the English School that seeks to explain international society and the nature of ethical conduct (Reus-Smit, 2009). This distinctive connection is what has allowed to comprehend the role that materialism and, in particular, morality play in the human rights and security relation and how through it state actors, non-state actors, *mixed actors* and *within state actors* can inflict change on the norm implementation dynamics of the Arms Trade Treaty. This coupled with the CMV lens is what allows to display the moral constellation of the human rights and security relationship. Particular examples of non-state actors, like Redd Barna, Control Arms- ATT Monitor and CAAT, and *within state actors*, like the SV with the “boomerang effect” (Keck and Sikkink, 1998) which exerts pressure on the state from above and from below to bring human rights change.

Chapter 4, although not a case study per se, has detailed the functioning of the Arms Trade Treaty, the faults in implementation that it is starting to show and the unequal human rights and security relationship that was set with the creation of the Treaty and that continues to persevere with its application. This chapter has been important as a basis for the understanding of the case studies for this thesis. Through an explanation of the norms lifecycle and particularly through the explanation of the Treaty’s humanitarian core and the influence that previous human rights instruments have had upon it, this chapter sought to demonstrate the already present human rights and security relationship within the Treaty. With this, it showed the multilevel game that actors have played in order to achieve it as well as the casuistic nature of the international and domestic issues that represent the dynamics of global governance that actors have in the human rights and security relationship. These dynamics continue to be appreciated in the interaction between structure and agency that is reflected within the sphere of the multiple authorities of the Treaty’s implementation. The only official requirements, the delivery of the annual report and presence at the annual Conference of State Parties (CSP) as well as the ATT Secretariat have no direct authority of enforcement of the Treaty. The Treaty’s political direction, most importantly, as Amb. Korhonen said: “comes from state parties” (Korhonen, 2018). This shows the preponderance of state interests, particularly Western state interests. States give rights, by agreeing to treaties like the ATT, but they continue to control the means of violence. Chapter 4 has been an example of how the norm internalization of human rights and security laws have been permeating and constructing a just space for human rights, but also how there is still a loft-sided relationship between state and non-state actors and even on the human rights and security relationship. However, because the Treaty does not specify formal mechanisms of control it has left the door open for NGOs to do so, as was the focus of chapter 5.

Chapters 5, 6 and 7 have been the case study chapters. Together they have exposed specific human rights and security relationships as well as norm implementation dynamics hidden amongst indirect and direct application of the Arms Trade Treaty. They have exposed how the human rights and security relationship is also changing actors, this reflected in how the historically constructed nexus of material and moral interests is affecting their current decisions. The Arms Trade Treaty is not the only Treaty that the actors in these cases are seeking to implement, at least in the case of chapter 6 and 7, the UK and Norway. However, the Arms Trade Treaty being the latest of the humanitarian security norms is always present in the background, in the foreground and beyond. In general, this thesis matters because it makes a contribution to the field of International Relations by adding upon the existing and growing theoretical background that understands non-state actors or global civil society (Keck and Sikkink, 1998; Chandler, 2004b; Chandler, 2004a) further than their diverse roles in the stages of the norm lifecycle (Anheier et al., 2005; Kaldor, 2013a; Avant et al., 2010; Risse et al., 1999; Risse et al., 2013). Also, it focuses on the role these non-state actors have past the negotiation and creation of regimes of arms control in general (Muller and Wunderlich, 2013) and specifically (Garcia, 2014; Garcia, 2006; Garcia, 2011; Mathur, 2011) to achieve an understanding of the norm implementation dynamics on human rights based treaties through the conception that states give rights whilst controlling the means of violence (Cooper and Mutimer, 2011).

In particular, this study is significant because its contribution to the field is unique. Through an analytical framework based on genealogy and constitutive causality it looked at human rights and security in symbiosis, as well as delving into how their relationship is defined and defines by the construction of the nexus of moral and material interests of diverse actors. This thesis's findings matter because they are new and because they prove that seeing norm implementation dynamics through the lens of a human rights and security relationship displays an understanding useful for policy makers, practitioners and internationalist to be prepared for future implementation of human rights based security norms. The claims in this thesis, overall, are a contribution to constructivist theory based on its contingent nature. The summarized findings are:

(1) The newly defined constructivist human rights and security relationship is constantly changing and therefore revealing the strains between actors, between morality and materialism and of course, between human rights and security.

(2) *Norm implementers*, a novel definition of actors, tend to be non-state actors, like transformative NGOs-CAAT or reformative NGOs- Redd Barna and Control Arms-ATT Monitor that operate to seek implementation of the norm through the promotion of cultures of peace that avoid embedded militarism. *Norm implementers* can also be *within- state actors* or *mixed actors*, like the SV in Norway or the special advocates in

the UK. The variety of types of *norm implementers* reflect the semi-permeated boundaries of the state and non-state actors.

(3) The distinctive nexus of moral and material interests is composed consciously or subconsciously from a set of historical, political, strategic and economical values born from constructed social process and interactions.

(3.1) Material interests and material survival obtrudes stability and therefore morality. Like in the case of Control Arms-ATT Monitor's funding.

(3.2) Morality can be *false* or *neighbouring falsehood*, as based on Carr, Bull, Mill and Kant. This does not imply a failed or false construction of the human rights and security relationship, but it does show how it can be manipulated. Like in all of the cases, to different extents

(4) The original conception of norm implementation dynamics shows that the human rights and security relationship has multiple layers and multiple levels that give it its uniqueness.

(5) Independent NGOs, like CAAT, have a greater chance of successfully pushing for better implementation of international humanitarian law.

(6) States give rights but continue controlling the means of violence.

In detail, these findings can also be found within the case study chapters. Chapter 5 presented Control Arms-ATT Monitor as its main character. This chapter showed the complexity of the constitutive causality and the construction of the human rights and security relationship that is in constant change. The concept of NGOs dependant or not to the state was introduced. Based on Stavrianakis and Scholte (2011; 2002) NGOs can be reformist or transformative. Reformist are those civil society organisations that want to correct flaws without changing the structure; while transformative seek structural change. More than that, reformative organisations have some sort of dependency to the state, financial or otherwise, and transformative organisations are independent. Control Arms-ATT Monitor has been found to be constructing and developing a new role, beyond its norm entrepreneur role and into norm implementing. Control Arms has become legally a *norm implementer* and through the yearly reports made by ATT Monitor it is seeking the ATT implementation while keeping a fluid and defined human rights and security relationship. The materiality and morality of the actor in this case, is found to be more politically effective when it extends further than morality and into materiality. Control Arms- ATT Monitor has morally shamed those states that are not fully following the rules. However, the analysis of the Reports demonstrates a certain carefulness to shame. The case of Yemen has exposed that, for example, the UK has been indirectly shamed in only one report but is no longer mentioned in the successive two reports, giving a sense of lack

of continuity. This was not to say that morality is lacking but that it is more neighbouring false morality.

Chapter 5 also demonstrated how materiality in this case is contingent to the organisations stability, especially when elucidating the organisations financial dependency to states. The main funding states, tend to repeat themselves and tend to be the so called progressive states. These fund Control Arms and also ATT Monitor. These states, like Australia, Finland, Ireland, the Netherlands, Sweden, Switzerland, etc, tend to be more likely to participate due to either international reputation (Erickson, 2015; Erickson, 2009) and status seeking (de Carvalho and Neumann, 2014). Dependency can go both ways, and in many senses NGOs are at times described as “benign parasites” (Heins, 2008) that seek to infect and change the behaviour of their hosts. This is two-way effect is perceived in the specific overlay of the human rights and security relationship that Control Arms-ATT Monitor has in opposition to the ATT member states. Particularly visible is the tension between state and non-state actors and the multilayer causes of the interactions. The complexity of the morality in particular gives a sense of how the human rights side of the relationship struggles against the security side. How flirting with *false morality* is something some non-state actors have to endure in order to inflect change on state actions whilst also displaying the dynamics that certain progressive states sustain to persist in the international scene. What the human rights and security relationship exemplifies is how both types of actors are seeking to maintain but at the same time define their roles in the advancement of the Treaty whilst maintaining, to a certain extent, the status quo and without any real provocation of large exporting states that might be to blame for the lack of improvement in the compliance. With this, both the progressive states and Control Arms are defining their identity and their role within the realm of the Arms Trade Treaty by giving some rights but still controlling the means of violence.

Chapter 5, also introduced and properly defined *norm implementers* and false morality. *Norm implementers* are organisations that go beyond norm entrepreneurship and into implementation of the norm. *Norm implementers*, as explained above are similar to Rawls’ agents, because they should be free, mutually disinterested and fair. *False morality*, as explained above, is partially based on Mill’s consequentialism. It can also be understood as the combination of a Realist view of morality (Carr, 1945) and an English School view (Bull, 1977). Carr saw morality as a cloak for great power interests, while Bull criticised this and asked for focus on moral beliefs that influence the whole international society. In this sense, false morality has been used as a diversion from natural law into non-moral and material interests.

Chapter 6, presented a different set of actors that led to a different accommodation of the human rights and security relationship. The case of the UK and the implementation of the ATT allows to recognise further constituted causalities of the actors involved, of the treaty and its norm phases. The case of the UK selling arms to Saudi Arabia was a case of a broken implementation of the Treaty, especially when

considering the 2017 decision of the High Court. However, CAAT's role in continuing the appeal and receiving favourable news in June 2019 became an instance that showed the diverse roles of actors seeking to balance the human rights and security relationship. Despite the UK government resuming sales to Saudi Arabia in summer 2020, this case study has empowered NGOs role past the negotiation phase of the norm and into actual application and operation. CAAT's actions reside in multiple levels, by acting domestically in favour of IHL and HRL and seeking international change. CAAT, as a transformative NGO is then seen as a *norm implementer*, that acts within the state boundaries as a local non-state independent actor. The special advocates and DfID-Oxfam become *mixed actors* that can be carriers of morality and human rights as well as, in an indirect manner, *norm implementers*. Both the government and civil society become agents that have the power of constitutive causality in defining reality of national and international morality. Moral interests are not the sole owners of the human rights side of the relationship, just like material interests are not completely void of morality. In fact, the UK uses material interests in the name of moral ones, leading to a clear case of *false morality*. Morality, or *false morality*, of the UK, has a connection with material interests, just like in between these interests there is a correlation as well. Material interests are ever-changing constructions of the nexus of economic, strategic (i.e. foreign policy, security and military), historical and sociological interests that collide and develop constantly.

What the particular overlay of the human rights and security relationship represents in the case of the UK, the 2017 decision and the 2019 appeal is different from the one in chapter 5 but at the same time the same. The multilayeredness and multilevel nature of the relationship are what has allowed for *norm implementers* to exert pressure from below, from above and from everywhere in between. Much like Keck and Sikkink's "boomerang effect" (1998), but enlarged. Despite the new sales of arms of summer 2020, this particular relationship gives civil society a stronger sense of agency, past the negotiation phase of the norm, like most of the current scholarship detail, but making it a crucial moderator in the implementation of the norm domestically with international effects. *Norm implementers*, in this case can also be an example of the continuous actions made to give rights and actually seek to avoid the control of the means of violence. *Norm implementers* seek to enhance and promote cultures of peace in a global and local manner, whilst avoiding compliance with the military agenda. What is true is that due to the *false morality* of the state, material interests prevailed and the fight for centre stage between human rights and security becomes even tougher than in other cases. The human rights and security relationship, much like the core of constructivist theory (Kessler, 2016) is contingent to actors changes and circumstances. *Norm implementers* seeking the adherence to norms, are aiming towards controlling this contingent (Onuf, 2009) nature of the human rights and security relationship.

Chapter 7, the case of Norway halting arms licenses to Saudi Arabia, allowed to understand that its defence, security and foreign policy strategies coupled with a

historic sense of material and moral peace engagement are at the centre of the state's decision. The particular twist of this case is the open involvement of the state in issues like safeguarding the military industry and support for civil society through the so called Norwegian Model. This has meant that the limits between state and non-state actors become difficult to identify and easily undefined at times. Moreover, that the boundaries of these actors are semi-permeable enhancing a multi-layered human rights and security relationship. *Norm implementers* in this case come from inside the state, like the Socialist Left Party as a representative of a *within- state actor*. Such actor, works in cooperation with non-state actors, especially with a reformist NGO like Redd Barna (Save the Children Norway). In this case, the reformist NGO, despite having obvious state funding due to the Norwegian Model, acts in direct opposition to the state and even engages with actors within the state to achieve its objectives. These *norm implementers* are an example of actors seeking to create cultures of peace in order to not be complacent with the military agenda.

Moral and material interests are severely intertwined, whether purposefully or by chance. Norway's material interests stem from the construction of a peace rhetoric that has been built in relation to its relation to global and domestic actors and therefore closely related to the definition of its identity. Because of this, protecting its interests becomes a matter of protecting its identity. Throughout this, it can be seen that Norway is consciously or subconsciously, basing its strategies on the peace discourse, interested in maintaining the status quo specifically the UN and the upcoming candidacy to the Security Council, and involving itself successfully in NATO. This with aims of up keeping its global status. Because of this a *paradoxical morality* comes into play, or more like a *false morality*. It is as if the state seems to be the ultimate carrier of morality internationally, through its peace engagement, but not as much internally when it comes to arms control export licensing decisions and the ruthless prioritization of strategic interest. The specific human rights and security relationship of Norway in this case represents constant change exemplified by the continuous push and pull between moral and ethical ideas over sovereignty and state preponderance coupled with the nexus of key interests that allow for a close interaction between structure and agency. The key moral and material interests can be seen to have a role not only in how the overlap looks today but also on the evolution of the implementation of the ATT domestically and internationally. Also, this case study represents a continuous enhancement of non-state actors and *within-state actors* in the norm implementation dynamics of the Arms Trade Treaty.

Put together, the findings discussed above have demonstrated the fluidity and complexity of the human rights and security relationship. They also demonstrate the benefits of viewing actor's actions within the realm of human rights based security treaties as human rights and security and not as separate beings. The three case studies have different perspectives on the different set of actors, *norm implementers* and nexus of material and moral interests that can exist. They expose distinctive views on materialism and on diverse levels of *false morality*. They contribute to

improving the weaknesses of constructivist theory by bringing a CMV lens that allows for a focus on the moral constellation of the relationship. These cases are not the only combinations available, but they do represent key interactions that allow for an enhanced appreciation of the multilayer strains between structure and agency that enrich the understanding of the norm implementation dynamics of the Arms Trade Treaty and other similar treaties. By highlighting norm implementation dynamics within the realm of arms control, this study advocates the continued importance of actors beyond the state, within the state and in the state as well as their semi-permeable boundaries. More than this, this study implies that the particular framework of analysis based on genealogy and constitutive causality allows to obtain a unique view of the implementation of a human rights based treaty and with it promoted a better understanding of the diverse actors involved.

Thinking into the limitations of this thesis, I understand that the circumstances in each of the cases are special and that the human rights and security relationship could behave differently across other actors and in other scenarios. It would have made this study richer if access to NGO funding and financing was easier to obtain and with it the direct and indirect conditions that organisations suffer with it. It would be interesting to also focus on importing member states and on how the norm implementation dynamics are affecting their control of the Treaty. Thinking even further, this study would become richer by further understanding *false morality* and how it is used in the realm of arms control. Also, new crisis or wars, might arise and bring new challenges to the implementation of the Arms Trade Treaty that have not yet being taken into consideration in this study. That is why, further research of this study would like to focus on more cases, as well as revisiting these cases when the Arms Trade Treaty has become older.

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